

# VILLAGE of SHERMAN

## ZONING LAW 2009

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ARTICLE TITLE	ARTICLE TITLE
ARTICLE I	TITLE, ENACTING CLAUSE, & PURPOSE
Section 101	Title
102	Enacting Clause
103	Purpose and Objectives
104	Application of Regulations
ARTICLE II	INTERPRETATIONS & DEFINITIONS
Section 201	Language and Interpretations
202	Definitions
ARTICLE III	ESTABLISHMENT OF DISTRICTS
Section 301	Creation and Enumeration of District
302	Zoning Map
303	Interpretation of District Boundaries
ARTICLE IV	DISTRICT REGULATIONS
Section 401	Residential (R1) District
402	District Commercial (C) District
403	Highway Commercial (C2) District
404	Rural Residential (R2) District
405	Existing SubStandard Sized Lots
406	Visibility at Intersections
407	Interpretation of Permitted Uses
408	Preserving Yards, Courts & Open Space
ARTICLE V	GENERAL PROVISIONS
Section 501	Access to Public Street
502	Contiguous Parcels
503	Corner Lots
504	Height
505	Transition between Districts
506	Disputed Lot Lines
507	Established Front Yards
508	Lot Division
509	Lots in Two Districts
510	Driveways within Right-of-Ways
511	Agriculture
ARTICLE VI	SUPPLEMENTAL REGULATIONS
Section 601	General Development Conditions
602	Cluster Residential Development
603	Multiple Dwellings
604	Bed & Breakfast
605	Home Occupations
606	Professional Offices
607	Household Sales
608	Temporary Retail Outlet
609	Restaurants
610	Vehicle Repair / Auto Body Repair Shop
611	Vehicle Sales
612	Vehicle Service Stations
613	Swimming Pools (Private)
614	Parking-Off Street
615	Loading and Unloading
616	Fences / Walls / Hedges
617	Towers / Windmills / Antennas
618	TV Dish Antennas
619	Solar Energy Systems
620	Gravel Operations
621	Gas Compressors
622	Junk Vehicles
623	Trash Storage
624	Scrap & Junk Yards
625	Heavy Vehicles
626	Large Group Gatherings
627	Farm Animals
628	Mobile Home Standards
629	Mobile Home Parks
630	Temporary Dwelling Units
631	Temporary Mobile Homes
632	Fuel Tanks
633	Aircraft Landing Strip
634	Topsoil Excavation
635	Recreational Vehicle/Trailer Storage
636	Unsafe Structures
637	Signs
638	Adult Businesses
639	Outdoor Wood Burning Furnaces
640	Storage-Accessory Structures
641	Mobile Food Vendors
642	Permanent/Semi-Permanent Covering

ARTICLE	TITLE
ARTICLE VII	ADMIN. BY ENFORCEMENT OFFICER
Section 701	Enforcement
702	Duties
703	Zoning Permits
704	Schedule of Fees
705	Administrative Liability
ARTICLE VIII	NONCONFORMING USES
Section 801	Continuation
802	Alteration of Structures
803	Prior Approved Construction
804	Cessation
805	Displacement
806	District Changes
807	Nonconforming Yard Changes
808	Use Changes
ARTICLE IX	ZONING BOARD OF APPEALS
Section 901	Creation
902	General Procedures (Duties)
903	Interpretation
904	Use and Area Variances
905	Special Use Permits
906	Mandatory Referral

ARTICLE	TITLE
ARTICLE X	MUNICIPAL PLANNING BOARD
Section 1001	Creation
1002	Duties: Recommendations and Review
1003	Mandatory Referral
ARTICLE XI	MUNICIPAL BOARD
Section 1101	Duties
1102	Referral to Municipal Planning Board
1103	Mandatory Referral
ARTICLE XII	VIOLATIONS & PENALTIES
Section 1201	Violations
1202	Penalties
ARTICLE XIII	LEGALITY
Section 1301	Conflicts
1302	Separability
1303	Repealer
1304	Effective Date
ARTICLE XIV	VILLAGE EXEMPTION
Section 1401	Purpose and Intent
Section 1402	Village Exemption

# VILLAGE OF SHERMAN

## ZONING LAW 2009

### ARTICLE I

#### TITLE, ENACTING CLAUSE, & PURPOSE

##### SECTION 101 TITLE

A Local Law regulating the location, construction and use of buildings and structures, and the use of land in the Village of Sherman, County of Chautauqua, State of New York, and for said purposes dividing the Village into districts. This Local Law shall be known and cited as the Zoning Law of the Village of Sherman.

##### SECTION 102 ENACTING CLAUSE

Pursuant to the authority conferred by the Laws of the State of New York and for each of the purposes specified therein, the Village Board of the Village of Sherman, County of Chautauqua and the State of New York, has ordained and does hereby enact the following Local Law regulating and restricting the location, size, and use of buildings and other structures, and the use of land in the municipality.

##### SECTION 103 PURPOSE AND OBJECTIVES

- A. Comprehensive Plan** - The zoning regulations and districts set forth and outlined upon the zoning map are made in accordance with a comprehensive plan for the municipality. The enactment of the Zoning Law brings benefits to the community which may not be highly or immediately visible. However, the resulting conditions will enhance and preserve the quality of living, health, and safety for the municipality.
- B. General** - General benefits derived from zoning laws include the following:
1. Promotes health, convenience, economics, and general welfare of the community;
  2. Balances the rights of the public-at-large, private landowners, and other various interest groups;
  3. Encourages the positive shaping of the future and the long-range benefits associated with zoning laws;
  4. Allows for the maintenance of an equitable assessment role;
  5. Imposes reasonable restraints on opportunists, and zoning is controlled locally; may be amended to meet changing needs and has built-in flexibility for unique situations.
- C. Safety** - From a safety viewpoint, zoning laws can assist in the following:
1. Promotes fire safety by controlling building heights, separation of structures, etc.
  2. Promotes traffic safety by protecting the traffic carrying capabilities of highways through setbacks, etc.
  3. Ensures that flood plains are reasonably controlled with respect to types of uses, densities, etc.; and
  4. Protects residents from other conditions which could cause injury or death.
- D. Quality** - Zoning laws perpetuate the highest possible quality of life by:
1. Maintaining a rural atmosphere in selected areas;
  2. Promoting the retention of an aesthetically pleasing community by minimizing nuisances and visually unattractive developments;
  3. Insuring adequate light, air, and open space; and
  4. Maintaining the character of residential neighborhoods by providing appropriate locations for living and raising a family through types of uses encouraged in a district.
- E. Economics** - Zoning laws also positively affect a community's economic structure by:
1. The use of existing infrastructure;

2. Utilizing existing roadways optimally while discouraging the creation of new roads, except as needed;
3. Encouraging the retention of prime agricultural, commercial and industrial properties for those users and those uses for which they are best suited; and
4. Encouraging the largest tax base possible through controlled development.

**F. Stability** - Zoning laws also contribute a great deal to neighborhood stability by:

1. Keeping rural municipalities from being a dumping ground;
2. Protecting property values and individual investments by encouraging proper development for each type of district;
3. Maintaining the character of a neighborhood by providing a stable and orderly living environment; and
4. Keeping nuisances to a minimum, especially in residentially oriented neighborhoods;
5. Allowing for the creation of a fair tax base by keeping informed of both new construction and demolition.

**G. Health** - lastly, zoning laws protect public health through establishment of standards which address these issues. A zoning law:

1. Ensures that appropriate amounts of light, air and open space are available for all residents;
2. Reinforces health standards, particularly with respect to sewage and water-related problems; and keeps unhealthy situations from arising which could cause disease or injury.

**SECTION 104 APPLICATION OF REGULATIONS**

Compliance Responsibility - It shall be the responsibility of all property owners, developers, lessors, or others involved with the temporary or permanent use of land or structures to comply with the regulations of this Zoning Law. No building or buildings shall be erected or altered which will substantially limit the usefulness or depreciate the value of the surrounding property.

**A. Regulation Applicability** - the regulations of this Law shall apply and shall require a zoning permit (except as specifically exempted) for the following situations:

1. To occupy a structure or land;
2. To erect, alter, enlarge, move or demolish a structure; and
3. To change one use to another use to include the increasing of families utilizing land or structures.

**B. Other Related Regulations** - the following regulations shall, as applicable, be complied with prior to occupancy or where specifically stated prior to issuance of a zoning permit:

1. Subdivision Laws - State and existing local subdivision laws must be complied with in addition to this Zoning Law.
2. National Flood Insurance Program - It shall be the responsibility of the applicant for a zoning/building permit to insure that the National Flood Insurance Regulations in addition to Zoning Regulations shall be complied with for those parcels located within the flood plain as shown on official Flood Insurance Administration maps.
3. State Environmental Quality Review Act - Any development requiring a permit as well as amendments to this Law shall be subject to an Environmental Assessment in accordance with State Law.
4. Health Department Rules - In areas not served by municipal sewer or water systems, the regulations of the State and County and local Health Departments with respect to water supply and sewage disposal facilities will apply. The applicant for a building or zoning permit must obtain a copy of the required health department permits for attachment of local approval.
5. Fire & Building Code - No structure shall be erected, altered, or used unless it complies with the New York State Uniform Fire & Building Code.
6. Wetland - Development taking place within 100 feet of State designated wetlands requires a DEC permit.
7. Right-of-way Crossing - the appropriate Highway Superintendent should be contacted prior to constructing a driveway or any other activity involving a highway right-of-way.

## **ARTICLE II INTERPRETATIONS & DEFINITIONS**

### **SECTION 201 LANGUAGE AND INTERPRETATIONS**

For the purpose of this Local Law, certain terms or words herein shall be interpreted or defined as follows: Words used in the present tense include the future tense. The singular includes the plural. The word "person" includes a corporation as well as an individual. The word "lot" includes the word "plot" or "parcel". The term "shall" is always mandatory. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied".

### **SECTION 202 DEFINITIONS**

Certain words and terms used in this Local Law are defined as follows:

**ACCESSORY BUILDING OR USE** - An accessory building or use is one which is subordinate to and serves a principal building or principal use; is subordinate in area, extent, or purpose to the principal building or principal use served; contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and is located on the same lot as the principal building or principal use served but is not allowed to be located in a front yard.

**ACCESSORY APARTMENT** - A secondary apartment developed in an existing single-family dwelling.

**ACCESSORY DWELLING UNIT** - Dwellings intended for temporary occupancy and including but not limited to a travel trailer, motor home, truck camper or tent occupied by persons other than those generally residing in the primary dwelling unit and located on the same parcel as the primary unit.

**AGRICULTURAL STRUCTURE** - Any structure used primarily and directly for agricultural activities and including but not limited to barns, silos, storage sheds, com cribs, milk houses, and similar structures.

**AGRICULTURE, LIMITED** -The production of crops, plants, vines, and trees, provided no substantial odor or dust is produced within 100 feet of any building on adjacent property.

**AIRPORT** - Any land or water space frequently used for the landing and takeoff of any aircraft including helicopters. All airports must comply with federal and state regulations and be approved by the commissioner of transportation for New York State.

**ALTERATION** - As applied to a building or structure, a change or rearrangement in the structural parts, or in the exit facilities, or an enlargement, whether by extending on a side or increasing in height, or moving from one location or position to another; the term "alter" in its various modes and tenses and its particular form, refers to the making of an alteration.

**ANIMAL** – Any species within the Animal Kingdom including but not limited to birds, mammals, and reptiles. [Added 2022-12-14 by LL #4 of 2022]

**ANIMAL, FARM** - Any animal which customarily is raised for profits on farms and has the potential of causing a nuisance if not properly maintained.

**APARTMENT HOUSE** - A building arrangement, intended or designed to be occupied by 4 or more families living independently of each other. Condominiums and townhouses shall be considered to be apartments.

**AREA OF SPECIAL FLOOD HAZARD** - Means the land in the flood plain within a community subject to a 1% or greater chance of flooding in any given year.

**BASE FLOOD** - Means the flood having a 1% chance of being equaled or exceeded in any given year.

**BED & BREAKFAST** - Any dwelling unit lived in by a family where for compensation 1 to 5 guest rooms are provided along with a breakfast meal. Only short-term, stays by guests shall be permissible. See Boarding House, also.

**BOARDING HOUSE** - Any single-family dwelling unit lived in by a family where, for compensation, guest room lodging is provided with or without meals for up to 2 individuals. The term "Boarding Home" shall include, "Rooming House," "Lodging House," and other similar terms.

**BUFFER** - A strip of land, fence or border of trees, etc., between one use and another, which may or may not have trees and shrubs planted for screening purposes, designed to set apart one use area from another. An appropriate buffer may vary depending on uses, districts, size, etc., and shall be determined by the Permitting Board.

**BUILDING** - Any structure having a roof supported by columns or by 4 independent, nonparty walls, and intended for the shelter, housing, or enclosure of persons, animals, or chattel (moveable possession).

**BUILDING AREA** - The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps. All dimensions shall be measured between the exterior faces of walls.

**BUILDING LINE** - A line formed by the intersection of a horizontal plane of average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered section of a building or projected roof or porch, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line.

**BUILDING PERMIT** - See Zoning Permit.

**BUILDING SETBACK LINE** - An established line within a property defining the minimum required distance between the face of any structure to be erected and the edge of the road of an adjacent highway or a property line.

**BUSINESS/INDUSTRY, LIMITED** - A commercial venture which is the primary or major occupant of a structure and possesses the following characteristics: utilizes a maximum of 2,000 square feet of floor space, employs less than 5 employees, does not generate over 100 vehicles of business per 24-hour period, does not have a substantial effect on the character of the neighborhood, and generates no nuisances (smoke, odor, noise, etc.

**BY RIGHT** - Refers to uses requiring a permit but with no public hearing required.

**CAMP** - Any area of land and/or water on which is located a cabin, tent, travel trailer, motor home, or other type of shelter suitable and intended for use in a temporary-seasonal manner. For the purposes of this Law, no minimum floor space shall be required for a seasonal structure.

**CLUB** - An organization catering exclusively to members and their guests including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising, or commercial activities except as required generally for the convenience of the membership and purposes of such club.

**CLUSTER DEVELOPMENT** - A development of 5 acres or more where a developer may elect, after Board approval, to cluster or group his development in return for the permanent creation of common areas. Overall, the density of development remains approximately the same as required by the district area requirements.

**CONVENTIONAL DWELLING UNITS** - See Dwelling Unit.

**CUSTOMARY** - Commonly found to exist.

**DAY CARE CENTER** - A structure, together with its lot operated on a regular basis, for the purpose of providing daytime care for 3 or more children or adults. Similar uses going under names such as Day Nurseries, shall for the purpose of this Law be considered to be Day Care Centers. See Part 51R of Social Services regulations.

**DAY CARE HOME** - In accordance with Sections 390 of the Social Services Law, an individual's home used to care for 3 to 6 children away from their homes for less than 24 hours per day for compensation for more than 5 hours per week. The provider's own children under 6 years old shall be counted toward the maximum number allowed. An annual permit from the Social Services Department is required with the applicant required to verify fitness to care for children, sound health, sufficient finances, an adequate physical plant, etc.

**DECK** - An unrolled open structure projecting from an outside wall of a structure without any form of enclosure.

**DESIGN/ARCHITECTURAL STANDARDS** - Standards approved by Municipal Board for use in guiding the design of new signs. A design review board, appointed by the Municipal Board, shall be responsible for the administration of the design/architectural standards.

**DEVELOPMENT** - Means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining dredged, filling, paving, excavation, or drilling operations.

**DOMESTIC ANIMAL** - For the purposes of this Law a domestic animal shall include dogs and cats only.

**DRIVE-IN** - Businesses designed to either wholly or partially provide services or products to customers while in their automobiles parked on the premises. Examples include but are not limited to: film shops, drive-in theaters, and fast food restaurants.

**DRY HYDRANT** - A pipeline capable of transporting water on a year-round basis from a pond, or other water source to a hydrant. The water is not under pressure and thus to be utilized for firefighting purposes must be properly engineered such that a pumped truck can successfully draw sufficient water volume from the hydrant.

**DUPLEX** - A dwelling arranged, intended, or designed to be occupied by 2 families living independently of each other.

**DWELLING UNIT** - One or more rooms providing living facilities, including equipment and provisions for cooking, for a single household including one or more person living as a family. Dwelling units shall be categorized by 4 construction types:

A. *Conventional* - A permanent single-or multiple-family dwelling unit which is built on site 'using conventional "stick" construction techniques among others. Included in this category are pre-cut homes which refer to conventional dwelling units built on site utilizing wood framing members that are pre-cut in a factory to the correct lengths but delivered to the building site unassembled. For the purpose of this Law, a pre-cut dwelling unit shall be considered to be the same as a conventional dwelling unit and shall not be considered to be a manufactured home.

B. *Modular* - A permanent single-or multiple-family dwelling unit which is brought to the building site as 2 or more units on a transport trailer. Modular dwelling units have no support frames as found on mobile homes but instead are placed on a separate foundation. Modular dwelling units contain the same utility systems as conventional dwelling units. Modular dwelling units are not designed to be moved after they have been lifted onto a foundation. They are generally a minimum of 24 feet wide.

C. *Prefabricated* - A permanent single-or multiple-family dwelling unit which is brought to the building site in large sections or panels usually 8 feet high and up to approximately 40 feet long. Often the doors and windows are factory insulated in the panels with the wall panels designed to be erected immediately after delivery. Prefabricated dwelling units are sometimes referred to as panelized units.

D. *Mobile Home* - A transportable, fully assembled single-family dwelling unit suitable for year-round occupancy. Mobile home dwelling units contain the same utility systems (water, waste, electricity) as found in conventional dwelling units. Mobile home dwelling units are supported by a chassis which is an integral part of the unit. Mobile home dwelling units are not designed to be lived in- except when set up on a lot with proper utilities. By definition, mobile homes include double-wide mobile home dwelling units, but does not include travel trailers which are self-contained. For the purpose of this Law, mobile homes are listed separately as allowed uses as are conventional (stick built/precut), modular, and prefabricated (panelized) dwelling units.

EATING AND DRINKING ESTABLISHMENTS - Places where food and/or beverages are prepared and/or sold for consumption on the premises or for takeout, including restaurant, tea rooms, cafeterias, bars, taverns, and lunchrooms.

ENFORCEMENT OFFICER - Shall mean the Enforcement Officer of the municipality.

ESSENTIAL SERVICES - The erection, construction, alteration, or maintenance by public Utilities or municipal, or other governmental agencies, of gas, electrical, steam, water, sewage, and communication systems, and facilities. Railroad tracks and facilities, and bus shelters shall also be considered as providing an essential service.

FAMILY - One or more persons, related by birth, marriage, or other domestic bond, occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

FARM - Any parcel of land containing at least 10 acres which is used to raise/grow agricultural products, livestock, poultry, and/or dairy products with the intent of financial gain. It includes necessary farm structures and the storage of equipment used.

FENCE - Any artificially constructed barrier or vegetation barrier, such as a hedge with the purpose or intent of preventing passage or view, thus providing privacy.

FENCE, BARRIER - Any fence which is located near the perimeter of the property of which it is intended to provide privacy; any fence located a distance from the property line which provides privacy to a portion of land such as a patio or swimming pool.



FENCE, FARM - Any fence whether located on a farm or not which has as its primary purpose the control of domestic animals.

FIRE RESISTANT - Any materials which possess the properties, construction, or assembly qualities which under fire conditions prevents or retards the passage of excessive heat, gases or flames; and thus, is not easily ignited.

FLAMMABLE - Capable of igniting within 5 seconds when exposed to flames and continuing to burn.

FLOATING DISTRICT - Any zoning district for which district regulations are included in this Law and yet for which no land has initially been designated on the zoning map to be included in said district. Such a district may become a reality through the amendment of the zoning map of the municipality in accordance with the amendment procedures of this Law. The initiation of the creation of such a district may come from residents, the Planning Board a developer or the Municipal Board, itself, while the decision whether to activate such a district shall be made based upon the need for such a district.

FLOOR SPACE - The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business. Said areas shall be measured between the outside face of exterior walls, or from the center line of walls separating 2 uses. Said areas shall not include areas below the average level of the adjoining ground, garage space, or accessory building space.

FOOD – Includes foodstuffs or drinks of any kind. [Added 2022-12-14 by LL #4 of 2022]

GARAGES, PRIVATE - A secondary building used in conjunction with a primary building which primarily provides for the storage of motor vehicles and in which no occupation, business, or services for profit are carried on.

GARAGES, PUBLIC - Any garage other than a private garage, operated for gain available on a rental basis for the storage of motor vehicles, including the supply of gasoline and oil.

GAS COMPRESSOR - Any mechanical equipment utilized to cause the movement of natural gas through a transmission line system.

GAS STATION - The retail sale of fuel and related oil products as well as minor service repairs and routine maintenance to include oil and tire changes.

GENERAL RETAIL BUSINESS - See Retail Business.

GENERAL SERVICE BUSINESS - See Service Business.

GENERAL WHOLESALE BUSINESS - See Wholesale Business.

GRAVEL PIT/QUARRY/SAND PIT - A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for building permit has been made.

GRAVEL PIT, SMALL - Any gravel pit involving the extraction of less than 1,000 tons annually or approximately 2.6 average trucks (19.2 tons) weekly.

HEAVY VEHICLES - Automobile wreckers, commercial trailers, semi-trailers, or any vehicle or truck with 3 or more axles which is subject to vehicle regulations and state inspections for use on public highways. Additionally any vehicle which operates a primary or secondary engine or compressor during hours of darkness in such a manner so as to cause a nuisance due to noise.

HEIGHT - The vertical distance from the highest point on a structure (excepting chimneys and other per items listed in Article V, Section 504 on "Height") to the average ground level of the grade where the wall or other structural elements intersect the ground.

HOME FOR AGED - A structure principally used to house senior citizens in which a separate household is established for each family. Nursing homes are not considered to be a home for aged.

HOME OCCUPATION - A use conducted within a dwelling and carried on by the inhabitants thereof, which is clearly secondary to the use of the dwelling for dwelling purposes and does not substantially change the character of the residence or neighborhood. Home occupations shall meet all conditions specified in Section 605 on Home Occupations.

HORTICULTURE, PRIVATE - The growing of fruits, vegetables, flowers, or ornamental plants for ones own pleasure and use. Also referred to as a private garden.

HOUSEHOLD SALE - Household sale for the purpose of this Law shall include lawn sales, patio sales, garage sales, basement sales, flea markets, bazaar or other similar 'types of sales. A household sale shall be distinguished from a business in that it involves the infrequent sale of used merchandise which, for private sales, was NOT obtained from outside the household. Nonprofit or fraternal organizations on the other hand may obtain their sale items from donations received from members or other sources.

HOUSING, ELDERLY - Apartments containing eating, sleeping, and living space and designed with elderly fully independent residents in mind. Generally, these apartments contain smaller than normal floor space, require less parking and less active recreational area. Additionally, common eating areas are sometimes provided.

HUNTING CAMP - See Camp.

INDUSTRY, GENERAL - The manufacture, preparation, processing, milling, or repair of any article, substance or commodity, and which involves no dangerous or toxic product or emissions. Additionally, noise, odors, or other nuisances incidental to productions and processing shall be restricted to a level which does not affect the use or enjoyment of property outside of the industrial District.

JUNK VEHICLES - any motorized vehicle to include those intended for operation both on and off of public roadways that additionally meet certain criteria. For the purpose of this definition, only motorized vehicles located outdoors shall be considered as to whether it is a junk vehicle. Additionally, a minimum of 4 of the following characteristics as determined by the Zoning Enforcement Officer shall be met in order to be considered to be a junk vehicle.

- A. Any motor vehicle abandoned due to its limited value such that the owner does not intend to recover possession of the vehicle and has stated such directly or indirectly by their actions.
- B. Any motor vehicle in such condition as to cost more to repair and place in operating condition than its reasonable market value.
- C. Any motor vehicle being dismantled or cannibalized for parts.
- D. Any motor vehicle which is missing bumpers, fenders, doors, trunk lids, windows, or other major body parts for 6 months or greater.

- E. Any motor vehicle no longer intended nor in a condition for legal use on public highways as determined by its lack of mobility for 1 year or more.
- F. Any motor vehicle intended for use on public highways which is not capable of passing a NYS safety inspection due to major visible safety problems.
- G. Any motor vehicle which negatively affects the character of a residential neighborhood from an aesthetic point of view due to its proximity to adjacent structures and results in a devaluing of adjacent improved or unimproved properties.
- H. Any motor vehicle stored in such a condition or manner such that it causes potential health or safety problems due to the presence of animal life, its use by children, etc.

Any motorized vehicle in the process of being restored in accordance with the supplemental Section 622 on Junk Vehicles shall not be deemed to be a junk vehicle as is also the case for vehicles removed from operation temporarily due to the season of the year.

JUNK YARD - See Definitions of Scrap Yards and Vehicle Dismantling Yards.

KENNEL - Any premises on which 5 or more dogs or cats over 6 months old are housed, groomed, boarded, trained, or sold for monetary gain.

LARGE GROUP - Any gathering of 500 or more people, occurring on a non-regular basis and involving either the charging of a fee, request for a donation or sale of products or services.

LOADING SPACE - Space logically and conveniently located exclusively for bulk pickups and deliveries at commercial structures.

LOT - A parcel of land occupied, or designed to be occupied by one building and the accessory buildings or uses customarily incidental to it, including such open space as are required by this Zoning Law.

LOT, COVERAGE - That percentage of the lot which is devoted to building area. District regulations refer to the maximum percentage of the lot area devoted to building area.

LOT, SIZE - An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres.

LOT LINE - Any line dividing one lot from another.

LOT WIDTH - The horizontal distance between the side lot lines measured at right angles to its depth at the building line.

MANUFACTURED HOME - A general category of housing construction denoting single-family detached or attached multiple-family dwelling units which are partially or totally constructed away from the site where they are to be placed for occupancy. Included in this category are mobile homes, modular housing, and panelized (prefabricated) housing.

MOBILE DWELLING UNIT - See Dwelling Unit (same as Mobile Home).

MOBILE FOOD VEHICLE – A self-contained cart, trailer, wagon, or motorized vehicle in which ready-to-eat food is prepared, cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution; or one in which

beverages are brewed, blended, chilled, bottled, portioned, poured, or prepared for service, sale, or distribution. [Added 2022-12-14 by LL #4 of 2022]

MOBILE FOOD VENDOR – The owner of a mobile food vehicle or the owner’s agent. [Added 2022-12-14 by LL #4 of 2022]

MOBILE HOME - See Dwelling Unit.

MOBILE HOME PARK - A parcel of land upon which 2 or more mobile homes are set up for living purposes.

MODULAR DWELLING UNIT - See Dwelling Unit.

MOTOR HOMES - A self-propelled, relatively small temporary living quarter generally used as mobile vacation homes. The homes generally have self-contained, independent utility systems.

MOTOR VEHICLE SERVICE STATION - Any area of land, including structures therein, that is used for the sale of gasoline or any other motor vehicle fuel and oil, and other lubricating substances; including any sale of motor vehicle accessories; and which may or may not include facilities for lubricating, washing, or otherwise servicing motor vehicles, but not including the painting thereof by any means, body and fender work, or the dismantling or replacing of engines.

MULTIPLE DWELLING - Two or more dwelling units per building.

MULTIPLE USE BUSINESS - A building or buildings in one contiguous location under single ownership which has more than one distinct business (e.g., restaurant and a gift shop) as defined in the allowed uses.

MUNICIPALITY - Shall mean the Village for which this Law applies.

NONCONFORMING USE - That use of a building, structure or land legally existing at the time of enactment of this Zoning Law or amendment thereto, and which is not one of those permitted in the district in which it is situated.

NUISANCE - A violation of this Law caused by an offensive annoying, unpleasant, or obnoxious use of characteristics of said use which produces effects of such a nature or degree that they are detrimental to the health safety, general welfare, property values, etc., thus resulting in harm or injury to adjacent or nearby properties or residents. Common examples include excessive odors, noise, smoke, vibration, light, runoff, traffic, development density, electronic interference, etc.

NURSERY (for Children) - See Day Care Center.

NURSING HOME - Also referred to as a convalescent home, it includes buildings where, for a fee, non-ambulatory residents are provided full-time convalescent or chronic care by skilled nurses in addition to room and board. No care for the acutely ill is provided. A health center is not to be considered as a nursing home.

OFFICE - A place which is used to conduct a business or profession and is occupied by a physician, surgeon, dentist, lawyer, or person providing similar services or in whose office the functions of consulting, record keeping, and clerical work are performed.

OPEN SPACE - Common, public, or private greens, parks, or recreation areas, including playgrounds, woodland conservation areas, walkways, trails, stream crossings and drainage control areas, golf courses, swimming pools, tennis courts, ice skating rinks, and other similar recreational uses, but which may not include any such uses or activities which produce noise, glare, odor, air pollution, fire hazards, or other safety hazards, smoke fumes, or any use or activity which is operated for a profit, or other things detrimental to existing or prospective adjacent structures or to existing or prospective development of the neighborhood.

PANELIZED - See Dwelling Unit, Prefabricated.

PARKING SPACE - A required off-street parking space. Refer to Section 614.

PLANNING BOARD - Refers to the Municipal Planning Board unless otherwise indicated.

POND - A manmade body of water utilizing natural materials which is used for recreational purposes as well as for fire protection.

PORCH - A roofed open structure projecting from an outside wall of a structure without any form of enclosure. Screens used as insect barriers are permissible and shall not cause the porch to be considered to be an enclosure.

PRECUT - See Dwelling Unit, Conventional.

PREFABRICATED DWELLING UNIT - See Dwelling Unit.

PRINCIPLE USE - The main use of land or buildings as distinguished from a subordinate or accessory use.

PREEXISTING USE - Any use, either conforming or nonconforming with this Law, that is legally existing at the enactment date of this Law.

PRIVATE CAMP - A parcel of land on which a travel trailer, tent, cabin, or other structure is present for use on a seasonal basis for leisure or recreation purposes.

PROFESSIONAL - Any person with an advanced college degree who possesses a license to practice. This includes but is not limited to doctors, lawyers, CPA's, engineers, etc.

PUBLIC - Owned, operated or controlled by a governmental agency (Federal, State, or Local) including a corporation created by law for the performance of certain specialized governmental functions, a public school district, or service district.

PUBLIC, QUASI - An organization which serves a governmental function but is not a governmental unit per se. A volunteer fire department is an example.

RECREATION, COMMERCIAL - Recreational facilities operated as a business and open to the general public for a fee. Includes only those facilities which can confine noise, lights, and other potential nuisances to their own premises. Recreational facilities shall include but not be limited to golf courses, ice skating rinks, and swimming pools.

RECREATIONAL VEHICLE - A vehicle primarily designed as temporary living quarters for recreational, travel, or camping use, which either has its own mode of power, or is drawn by another vehicle.

RESIDENCE, SINGLE-FAMILY DETACHED - A detached building designed to contain one dwelling unit.

RESIDENCE, TWO-FAMILY - See Duplex.

RESIDENCE, MULTI-FAMILY - A building used or designed for 3 or more dwelling units including apartment houses, town houses, and condominiums.

RESIDENTIAL CONVERSIONS - The creation of one or more additional dwelling units within existing residential structure in accordance with conditions set forth in this Law.

REST HOME - Commonly referred to as homes for the aged. These facilities provide private sleeping rooms for ambulatory (able to walk) residents. Generally, rest homes have common eating areas and provide minimal medical aid to residents. Only incidental convalescent care is provided which does not involve either trained nurses, physical therapy or other activities provided in a hospital or nursing home.

RETAIL BUSINESS, GENERAL - For the purposes of this Law, whenever a general retail business is listed as an allowed use, it shall signify that any retail business which has a minimal negative impact and can meet the conditions specified in this Law shall be allowed in addition to the specific retail uses as being allowed.

RIDING ACADEMY - Any establishment where horses are kept for riding for compensation. Riding academies shall be situated on a minimum of 10 acres of land and only in districts where allowed.

ROADSIDE STAND - A structure (either enclosed or open), a booth, or a transportable vehicle, the purpose of which is the sale of produce and other farm products to the general public. Roadside stands are located along a roadway in such a manner as to provide safe and convenient off-street parking. All conditions specified in this Law must be met.

SECTION - Unless otherwise noted Section and section numbers shall refer to this Law.

SEMI-PUBLIC - Places of worship, institutions for the aged and children, nurseries, nonprofit colleges, hospitals, libraries, cemeteries, and institutions of the philanthropic nature; also, open space.

SETBACK - Distance measured from the street edge or property line to a structure, sign, etc.

SERVICE BUSINESS, GENERAL - For the purpose of this Law, whenever a general service business is listed as an allowed use, it shall signify that any service business which has a minimal negative impact and can meet the conditions specified in this Law shall be allowed, in addition to the specific service uses listed as being allowed.

SHOOTING RANGE - The parcel(s) of land used for discharging of firearms with the intent to hit any object (moving or stationary) other than live game, by any person who pays a fee (e.g.; membership fees, shooting fee, etc.) to use said facilities. Commercial shooting ranges include but are not limited to nonprofit clubs (skeet club, etc.); and profit motivated business. For the purpose of this Law a shooting range shall be considered to be a trap/skeet or other type of range utilizing shot guns as well as an indoor (fully enclosed) range utilizing rifles or pistols not classified as shotguns.

SHOPPING CENTER - A group of commercial establishments occupying adjoining structures all of which may be deemed as one building and normally owned/managed as 1 unit. Off-street parking as well as loading/unloading facilities is provided as an integral part of the unit.

**SIGN** - Any structure or part thereof, attached thereto, or painted, or represented thereon, which shall display or include any letter, work, model banner, flag, pennant, insignia, device of representation, or used for the purpose of bringing the subject thereof to the attention of the public. The word sign does not include the flag, pennant or insignia of any nation state, city, or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious, or like organization, or the property thereof.

**SIGN, AREA** - The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected, enclosed, 4-sided (straight sides) geometric shape which most closely outlines the said sign. Only one side of the sign shall be used in measuring the area.

**SIGN, ADVERTISING** - A sign which offers services or goods produced or available somewhere other than on which the sign is located. The words "advertising sign" include the word "billboard." Neither directional warning nor other signs posted by public officials in the course of their public duty shall be construed as advertising signs.

**SIGN, BILLBOARD** - Any sign with a total area larger than that permitted by sign regulations of this Law for the district in which the billboard either exists or is proposed to be located in.

**SIGN, BUSINESS** - A sign for permitted use conducted on the premises which shall identify the written name and/or the type of business and/or any trademark of an article for sale or rent on the premises or otherwise call attention to a use conducted on the premises.

**SAWMILL** - Commercial facility containing sawing and planing equipment utilized for the preparation of dimensional lumber used for construction. No on-premise sales to the general public take place.

**SCRAP YARD** - Any place of storage or deposit of more than 100 square feet, usually of a commercial nature, where metals, glass, rags, etc., are held, whether for the purpose of disposal, reclamation, recycling or resale of such, including establishments having facilities for processing iron, steel, and nonferrous scrap for remitting purposes.

**SIGN, DIRECTIONAL** - A sign which identifies an attraction or activity and provides directional information useful to the traveler in locating the attraction such as mileage, route numbers, etc.

**SIGN, IDENTIFICATION** - A sign for a permitted use conducted on the premises for articles sold, or distributed by that use, or displaying the name of the premises.

**SIGN, INSTRUCTIONAL** - A sign conveying instructions with respect to the use of the premises, or a portion of the premises on which it is maintained, or a use or practice being conducted on the premises.

**SIGN, NAMEPLATE** - Any sign attached directly to the wall of a building occupied by the person to whom such a sign indicated the name, occupation and/or address of the occupant. A nameplate shall be not over 2 square feet in size.

**SIGN, PUBLIC** - Those signs erected to direct flow, speed and direction of traffic, effect general public safety or name streets and buildings.

**SIGN, TEMPORARY** - A sign which offers premises for sale, rent, or development; or announces special events or calls attention to new construction or alteration; or offers a sale of seasonal garden produce, garage, household, porch items or signs of similar nature; or political signs. Temporary status of signs will expire after 6 months.

**SOLAR STRUCTURE** - Any structure containing either a passive or active heat storage device which is dependent on direct contact with the sun in order to operate. Said heat storage devices are commonly used to heat totally or partially water, rooms, etc.

**SPECIAL USE PERMITS** - A special use permit deals with special permission, granted only by the Permitting Board after public hearing to occupy land for specific purposes when such use is not permitted By Right, but is listed as permitted by Special Use Permit.

**STORAGE STRUCTURE** - Any constructed combination of materials located or attached to the ground utilized for non-inhabited storage purposes. Used trucks and similar motor vehicles shall not be utilized as storage structures. For the purposes of this Law, all storage structures placed on a lot shall be cumulatively considered in calculating square footage and related permit requirements.

**STOREFRONT AREA** - That area of the front of a building associated with the first floor only. For businesses located above a first floor, the storefront area shall be calculated based on the ground floor entrance only.

**STORY** - That portion of a building excluding attics and cellars included between the surface of any floor and the floor next above it; or if there be no floor above it, then the space between any floor and the ceiling next above it.

**STORY, HALF** - A story under a gable, hip, or gambrel roof, the wall plates of which, on at least 2 opposite exterior walls, are not more than 2 feet above the floor of such story.

**STREET EDGE** - A curb or in the absence of a curb, the furthest outside point of a street or roadway which is designed and constructed to carry vehicles on a regular basis. A paved or unpaved shoulder of a road shall not be considered in determining the street edge.

**STRUCTURE** - A building constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Mobile homes are not considered to be structures for the purpose of this Law. (A Mobile Home is considered to be a structure under the Flood Insurance Program.)

**SUBDIVISION** - A division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy by any person or by any other person or any group of persons acting in concert as part of a common scheme or plan. Provided, however, that this shall not apply to conveyance of small amounts of land to correct a boundary of a lot so long as such conveyance does not create additional lots. The term includes any map, plot or other plans whether or not previously filed. It also includes any grading, road construction, installation of Utilities or other improvements or any other land use or development preparatory or incidental to such activity. It does not include the lease of land for hunting or fishing and other open-space recreational uses. The term includes re-subdivision and as appropriate in the regulations shall refer to the process of subdividing land to the land subdivided.

**SWIMMING POOL** - Any man-made receptacle for water (excepting farm ponds) located above or below ground designed for capacity of over 4 feet in depth at any point and intended to be used for swimming.

**TEMPORARY DWELLING UNIT (MOBILE)** - Dwellings intended for temporary occupancy and including but not limited to: travel trailers, non-haulers, truck campers, and tents. Persons residing in temporary dwelling units generally do not include those residing in the primary dwelling unit located on the parcel.



TEMPORARY USE - An activity conducted within a structure or on a tract of land for a specific limited period of time which may not otherwise be permitted by the provision of this Law. For example, a building used in conjunction with new construction which would be removed upon completion of the work.

TOWER - A structure generally fixed on the ground of a noncommercial or commercial nature, the purpose of which is to better enable the transmission or receiving of signals by achieving more height. For the purposes of this Law, a tower shall generally be capable of being climbed without utilizing special equipment and shall be categorized as:

- A. commercial;
- B. noncommercial more than 50 feet high as measured from the ground; and
- C. noncommercial 50 feet or less in height. Standard TV-type antennas are not to be considered to be a tower.

TOWN HOUSE - A dwelling unit designed to be occupied as a residence for one family and 1 of a group of 3 or more attached dwellings, placed side by side, separated by party walls, each containing 1 or 2 stories, and each having separate front and rear, or side and rear, or front and side entrances from the outside.

TRACT - A large piece of land under single ownership.

TRASH - Glass, scrap metals, salvaged metals, rags, refuse, garbage, wastepaper, salvaged machines, appliances, or similar materials, etc.

TRAVEL/TRAILER CAMPER - A relatively small temporary living quarter designed to be hauled behind a vehicle. Travel trailers are not designed as permanent living quarters and generally are used on a seasonal basis. They are supported at all times primarily by their own wheels. Travel trailers generally have self-contained independent utility systems. See definition of Accessory Dwelling Units.

TRAVEL/TRAILER CAMP/COMMERCIAL CAMPGROUND - A parcel of land used or intended to be used, let, or rented on a seasonal basis for occupancy by campers or for occupancy by or of travel trailers, motor homes, tents, or movable or temporary dwellings, rooms, or sleeping quarters of any kind.

TRIPLEX - A dwelling arranged, intended and designed to be occupied by 3 families living independently of each other.

USE - Any purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

VARIANCE - Permissive waivers from the terms of the Law, as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Law will result in unnecessary hardship or practical difficulty or that the spirit of the Law shall be observed and substantial justice done and granted by the Zoning Board of Appeals.

VEHICLE DISMANTLING YARD - Any place or storage of deposit where 2 or more unregistered, old, or secondhand vehicles, no longer intended for or in condition for legal use on public highways are held, whether for resale of parts or materials, or used parts and waste materials, which, when taken together equal in bulk 2 or more vehicles, shall constitute a vehicle dismantling yard. This excludes farm vehicles on property of a farming operation.

VEHICLE REPAIR SHOP - A commercial business operated for profit which repairs or services motor vehicles.

WHOLESALE - A business establishment engaged in selling to retailers or jobbers rather than consumers in wholesale lots.

WHOLESALE BUSINESS, GENERAL - For the purpose of this Law, whenever a general wholesale business is listed as an allowed use, it shall signify that any wholesale business which has a minimal negative impact and can meet the conditions specified in this Law shall be allowed in addition to the specific wholesale uses listed as being allowed.

WHOLESALE, LIMITED - A wholesale business with a maximum of 3 employees, not more than 4,000 square feet of floor space and no outside storage.

YARD, FRONT - The area extending across the entire width of the lot between the building line, and the front edge of the road into which space there shall be no extension of building partitions or accessory structures. \*\*For parcels adjacent to a lake, the front yard shall consist of the land area between the primary structure and the public or private roadway serving the property.

YARD, REAR - The area extending across the entire width of the lot between the rear wall of the principal building and rear line of the lot, and unoccupied except for parking, loading, and unloading space, and garages and carports.

YARD, SIDE - That open area of a lot situated between the side lines of the building and the adjacent side lines of the lot. For the purposes of this Law, an attached garage shall be considered as part of the primary building and as such must meet prescribed side yard setbacks.

ZONING BOARD OF APPEALS - Shall mean the Zoning Board of Appeals of the municipality.

ZONING PERMIT - Written permission issued by the appropriate Municipal Board/Officer authorizing the use of lots or structures. Zoning Permits are issued for uses which are permitted by the Zoning Law where all conditions required by the Law can be met for the district where the lot/structure is located. The relocation, enlargement, alteration, or other change of use shall require the issuing of a Zoning Permit. The two types of permits include By Right Permit and Special Use Permit.

# ARTICLE III

## ESTABLISHMENT OF DISTRICTS

### **SECTION 301 CREATION & ENUMERATION OF DISTRICTS**

For the purpose and provisions of this Local Law, the municipality is hereby divided into the following types of districts.

- R1 .... Single-Family Residential
- R2 .... Rural Residential
- C1 .... Commercial
- C2 .... Highway Commercial

### **SECTION 302 ZONING MAP**

The boundaries of the aforesaid zoning districts are hereby established shown on the map entitled, "Zoning District Map of the Village of Sherman, New York" dated which map accompanies and is made a part of this Zoning Law and shall have the same force and effect as if the zoning map, together with all notations, references, and other information shown thereon, were fully set forth and described herein.

**R1 .... Residential District** - shall include all of the following parcels on Kipp Street, Miller Street, Church Street, Park Street, Columbia Street, Kendrick Street, First Street, Klondike Street, Route 76, Mill Street, County Road 65, Willard Street, East Street and Prospect Street 328.06-1-02, 328.06-1-03,328.06-1-04, 328.06-1-05, 328.06-1-06, 328.06-1-07, 328.06-1-08, 328.06-1-09.1, 328.06-1-09.2, 328.06-1-11, 328.06-2-01, 328.06-2-02, 328.06-2-05, 328.06-2-06, 328.06-2-07, 328.06-2-08, 328.06-2-09, 328.06-2-10, 328.06-2-11, 328.06-2-12, 328.06-2-13, 328.06-2-14, 328.06-2-15, 328.06-2-16, 328.06-2-17, 328.06-2-18, 328.06-2-19, 328.06-2-20, 328.06-2-21, 328.06-2-22, 328.06-2-2, 3328.06-2-24, 328.06-2-25, 328.06-2-26, 328.06-2-27, 328.06-2-28, 328.06-2-29, 328.06-2-30, 328.06-2-31, 328.06-2-32 328.06-2-33, 328.06-2-34, 328.06-2-35, 328.06-2-36, 328.06-2-37, 328.06-2-38, 328.06-2-39, 328.06-2-40, 328.06-2-41, 328.06-2-42, 328.06-2-43, 328.06-2-44, 328.07-1-01, 328.07-1-02, 328.07-1-03, 328.07-1-04, 328.07-1-05, 328.07-1-06, 328.07-1-07, 328.07-1-08, 328.07-1-09, 328.07-1-10, 328.07-1-11, 328.07-1-12, 328.07-1-13, 328.07-1-14, 328.07-1-15, 328.07-1-16, 328.07-1-17, 328.07-1-18, 328.07-1-19, 328.07-1-20, 328.07-1-21, 328.07-1-22, 328.07-1-23, 328.07-1-24, 328.07-1-25, 328.07-1-26, 328.07-1-27, 328.07-1-28, 328.07-1-29, 328.07-1-30, 328.07-1-31, 328.07-1-32, 328.07-1-33, 328.07-1-34, 328.07-1-35, 328.07-1-36, 328.07-1-37, 328.07-1-38.1, 328.07-1-38.2, 328.07-1-39, 328.07-1-40, 328.07-1-41, 328.07-1-42, 328.07-1^3, 328.07-1^4, 328.07-1-45, 328.07-1-46, 328.07-2-01, 328.07-2-02, 328.07-2-03, 328.07-2-04, 328.07-2-10, 328.07-2-11, 328.07-2-12, 328.07-2-13, 328.07-2-14, 328.07-2-15, 328.07-2-16, 328.07-2-17, 328.07-2-18, 328.07-2-19, 328.07-2-20, 328.07-2-21, 328.07-2-22, 328.07-2-23, 328.07-2-24, 328.07-2-25, 328.07-2-26, 328.07-2-27, 328.07-2-28, 328.07-2-29, 328.07-2-30, 328.07-2-31, 328.07-2-34, 328.07-2-35, 328.07-2-36, 328.07-2-37, 328.07-2-38, 328.07-2-39, 328.07-2-40, 328.07-2-41, 328.07-2-42, 328.07-2-4, 3328.07-2-44, 328.07-2-45, 328.07-2-46.1, 328.07-2-46.2, 328.07-2-47, 328.07-2-48, 328.07-2-50, 328.07-2-51, 328.07-2-52.2, 328.07-2-5, 3328.07-2-54, 328.10-1-01, 328.10-1-02, 328.10-1-06, 328.10-1-09, 328.10-1-10, 328.10-1-11, 328.10-1-12, 328.10-1-13, 328.10-1-14, 328.10-1-15, 328.10-1-16, 328.10-1-17, 328.10-1-18, 328.10-1-40, 328.10-1-70, 328.10-1-71, 328.10-1-72, 328.10-2-30, 328.10-2-30, 328.10-2-31, 328.10-2-32, 328.10-2-33, 328.10-2-34, 328.10-2-35, 328.10-2-36, 328.10-2-41, 328.10-2-42, 328.10-2-42, 328.11-1-01, 328.11-1-02, 328.11-1-03, 328.11-1-04, 328.11-1-05, 328.11-1-09, 328.11-1-10, 328.11-1-11, 328.11-1-12, 328.11-1-14, 328.11-1-15, 328.11-1-16, 328.11-1-17, 328.11-1-18, 328.11-1-19, 328.11-1-20, 328.11-1-22, 328.11-1-25, 328.11-1-26, 328.11-1-27, 328.11-1-28, 328.11-1-29, 328.11-1-30, 328.11-1-31, 328.11-1-32, 328.11-1-33, 328.11-1-34.1, 328.11-1-34.2, 328.11-1-36, 328.11-1-37, 328.11-1-38, 328.11-1-39, 328.11-1^0, 328.11-1-41, 328.11-1-49, 328.11-1-50, 328.11-2-09, 328.11-2-10, 328.11-2-11, 328.11-2-12, 328.11-2-13, 328.11-2-14, 328.11-2-15, 328.11-2-16, 328.11-2-17, 328.11-2-18, 328.11-2-19, 328.11-2-20, 328.11-2-21,

328.11-2-22, 328.11-2-23, 328.11-2-24, 328.11-2-25, 328.11-2-26, 328.11-2-27, 328.11-2-28, 328.11-2-29, 328.11-2-30, 328.11-2-33.2, 328.11-2-36, 328.11-2-37, 328.11-2-38, 328.11-2-42, 328.11-2-43, 328.11-2-44, 328.11-2-45, 328.11-2-46, 328.11-2-47, 328.11-2-48, 328.11-2-49, 328.14-1-01, 328.14-1-02, 328.14-1-03, 328.14-1-04, 328.14-1-05, 328.14-1-20, 328.14-1-21, 328.14-1-22, 328.14-1-23, 328.15-1-01,

**R2 .... Rural Residential** - shall include all of the following parcels on, Kipp Street, Prospect Street, Park Street, County Road 65, Main Street and Route 76. 328.06- 1-10, 328.06-1-12, 328.06-1-13, 328.06-2-03, 328.06-2-04, 328.07-2-32, 328.07- 2-33, 328.07-2-49, 328.07-2-52.1, 328.11-1-13, 328.11-1-24, 328.14-1-17, 328.14-1-18, 328.14-1-19, 328.14-1-24, 328.14-1-25, 328.14-1-26,

**C1 .... Commercial** - shall include all of the following parcels on Klondike Road, Main Street, Miller Street, Church Street, Kipp Street, County Road 65, NYS Route 76, Willard Street and Prospect Street: 328.07-2-05, 328.07-2-06, 328.07-2-07, 328.07-2-08, 328.07-2-09, 328.10-1-05, 328.10-1-03, 328.10-1-22, 328.10-1-23, 328.10-1-24, 328.10-1-25, 328.10-1-26, 328.10-1-27, 328.10-1-28, 328.10-1-29, 328.10-1-30, 328.10-1-31, 328.10-1-32, 328.10-1-33, 328.10-1-34, 328.10-1-35, 328.10-1-41, 328.10-1-42, 328.10-1-43, 328.10-1-44, 328.10-1-45, 328.10-1-46, 328.10-1-47, 328.10-1-48, 328.10-1-49, 328.10-1-50, 328.10-1-51, 328.10-1-52, 328.10-1-53, 328.10-1-54, 328.10-1-55, 328.10-1-56, 328.10-1-57, 328.10-1-58, 328.10-1-59, 328.10-1-60, 328.10-1-61, 328.10-1-62.1, 328.10-1-62.2, 328.10-1-63, 328.10-1-64, 328.10-1-65, 328.10-1-66, 328.10-1-67, 328.10-1-68, 328.10-1-69, 328.10-2-01, 328.10-2-02, 328.10-2-03, 328.10-2-04, 328.10-2-05, 328.10-2-06, 328.10-2-07, 328.10-2-08, 328.10-2-09, 328.10-2-10, 328.10-2-11, 328.10-2-12, 328.10-2-13, 328.10-2-14, 328.10-2-15, 328.10-2-16, 328.10-2-17, 328.10-2-18, 328.10-2-19, 328.10-2-20, 328.10-2-21, 328.10-2-22, 328.10-2-23, 328.10-2-24, 328.10-2-25, 328.10-2-26, 328.10-2-27, 328.10- 2-28, 328.10-2-29, 328.10-2-37, 328.10-2-38, 328.10-2-39, 328.10-2-40, 328.11- 1-06, 328.11-1-07, 328.11-1-08, 328.11-1-35, 328.11-1-42, 328.11-1-43, 328.11-1-44, 328.11-1-45, 328.11-1-46, 328.11-1-47, 328.11-1-48, 328.11-2-02, 328.11-2-03, 328.11-2-04, 328.11-2-05, 328.11-2-06, 328.11-2-07, 328.11-2-08, 328.11-2-31, 328.11-2-35, 328.14-1-06, 328.14-1-07, 328.14-1-08, 328.14-1-09, 328.14-1-10, 328.14-1-11, 328.14-1-12, 328.14-1-13, 328.14-1-14, 328.14-1-15, 328.14- 1-16, 328.15-1-07,

**C2 .... Highway Commercial** - shall include all of the following parcels: 328.11-2-31, 328.11-2-35, 328.11-2-39, 328.11-2-40, 328.11-2-41, 328.11-2-33.1, 328.11-2-34, 328.15-1-02, 328.15-1-03, 328.15-1-04, 328.15-1-05, 328.15-1-06, 328.15-1-07, 328.15-1-08, 328.15-1-09, 328.15-1-10, 328.15-1-11, 328.15-1-12, 328.15-1-13

**SECTION 303 INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street edge lines, or highway right-of-way lines, shall be construed to be said boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines, or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance as given, such dimension shall be determined by the use of the scale shown on said zoning map.
- D. Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of jurisdiction of the municipality unless otherwise indicated.
- E. Any flood boundary shown on the zoning map indicates general location only. The precise location of flood plain boundaries shall be established by the Enforcement Officer after consulting with the Chautauqua County Planning Department.

- F. Any party aggrieved by an interpretation may appeal to the Zoning Board of Appeals, whose decision will be final. However, all decisions of the Zoning Board of Appeals are subject to court reviews in accordance with applicable laws of the State of New York. The burden of proof shall be on the appellant.

## **ARTICLE IV DISTRICT REGULATIONS**

### **SECTION 401 RESIDENTIAL DISTRICT (R1)**

- A. Purpose** – R1 Districts are established to primarily provide for new single-family residential development or to protect existing neighborhoods from encroachment of all other uses.
- B. Uses by Right (Permit Required)**
- Single-family dwelling-detached (conventional, prefab, modular)
  - Two-family dwelling-detached (conventional, prefab, modular)
  - Municipal office
  - Garage-accessory
  - Customary accessory use
  - Storage structure in accordance with Section 640
  - Open porch/deck
  - Demolition
- C. Uses by Special Use Permit (Hearing Required)** - All other potential land uses shall be subject to special use permit requirements and potential site plan requirements as specified in this Local Law.)
- Signs in accordance with Section 637
  - Fences/walls in accordance with Section 616
  - Boarding homes/bed & breakfast in accordance with Section 604
  - Homes for the elderly
  - Nursing home/rest home
  - Multiple dwellings-attached to 4 units in accordance with Section 603
  - Cluster residential development in accordance with Section 602
  - Household sale (garage sale) in accordance with Section 607
  - Utilities (quasi-public) e.g., telephone
  - School -public / private
  - Daycare center (in accordance with NYS regulations)
  - Library /museum/ gallery
  - Church/rectory
  - Tennis court-private use
  - Swimming pool-private use in accordance with Section 613
  - Solar system in accordance with Section 619
  - TV dish antenna in accordance with Section 618
  - Home Occupation in general
  - Home Occupation in accordance with Section 605
  - Fraternal Meeting Facility
  - Large Group Gathering
  - Land Applications - Sludge (must comply with DEC Regulations)
  - Recreational and Entertainment - golf course - private/public
  - Tennis Court
  - Commercial parking Lot
  - Gasoline/volatile fuel tank
- D. Uses Requiring No Permit (Requires Compliance with Law)** - Select uses do not require a Zoning Permit. However, the Enforcement Officer should be contacted prior to commencing any action to ensure that the use qualifies as not requiring a permit and that this Law as well as other Laws will be complied with.

- Horticultural-Private
- Recreational Vehicle/Trailer storage in accordance with Section 635
- Farm Animals in accordance with Section 627
- Junk Vehicles in accordance with Section 622
- TV Dish Antennae in accordance with Section 618

**E. Area Standards** - Also refer to the following: Section 405 (Substandard Sized Lots).  
Section 507 (Established Front Yards)

	<u>Single-Family Units</u>		<u>Nonresidential Uses</u>	
	Primary Use	Accessory Use	Primary Use	Accessory Use
Minimum Lot Size (Square Feet) .....	15,000		15,000	
Minimum Lot Width (Feet) .....	100		100	
Maximum Lot Cover (% of Lot Area) .....	30%		30%	
Minimum Front Yard* (Feet from Street Edge) .....	35	35	50	50
Minimum Side Yard (Feet) .....	25	15	25	15
Minimum Rear Yard (Feet) .....	35	15	50	25
Maximum Height (Feet) .....	30	15	30	30
Minimum Floor Space (Sq. Ft. - Living Space) .....	1,000			

\* Property owners also have the option of utilizing existing front line established by neighboring properties should that existing front line deviate from the bulk regulations cited above.

**SECTION 402 COMMERCIAL DISTRICT (C1)**

**A. Purpose** - The C1 District is established to protect and foster the existing retail and service business and enable it to better meet the needs of both residents and visitors. Portions of this district should be oriented toward pedestrian-oriented businesses. Additional uses for this district have the purpose of promoting variety of retail, service, and wholesale uses which are vehicle oriented in addition to light industrial uses not associated with nuisances or large utility systems. A major goal is to protect and enhance the community by encouraging aesthetically appealing businesses with safe ingress and egress and discouraging chaotic strip development.

**B. Uses Permitted by Right** (Permit Required).

- Single-family dwelling-detached (conventional, prefab, modular)
- Two-family dwelling-detached (conventional, prefab, modular)
- Municipal office
- Garage-accessory
- Customary accessory use
- Storage structure
- Demolition
- Signs in accordance with Section 637
- Open porch/deck

Fences/walls in accordance with Section 616

**C. Uses by Special Use Permit (Hearing Required)** All other potential land uses shall be subject to special use permit requirements and potential site plan requirements as specified in this Local Law.)

Household sale (garage sale) in accordance with Section 607

Flea market in accordance with Section 608

General Service shop Utilities (quasi-public) (e.g., telephone)

School-public/private

Daycare center (in accordance with NYS regulations)

Church/rectory

Theater

Electronic game room

Solar system in accordance with & Section 619

Signs in accordance with Section 637

Heavy vehicle parking (at residential dwelling) in accordance with Sections 614 and 625

TV dish antenna in accordance with Section 618

General Limited Industry

Large Group Gathering

Fraternal Meeting Facility

Cemetery Crematoria

Land Application - Sledge (must comply with DEC Regulations)

Swimming Pool/Private

Riding Academy/Stable

Carnival/Circus Temporary

Electronic Game Room

Tent meeting

Rifle Range Skeet/Gun Club

Parking Lot Commercial

Load/Unload Facility

Heavy TV Radio Tower/Commercial

Gasoline volatile fuel tank

Farm Animals

Road Side Stands

Parking/Commercial Lot in accordance with Section 614

Library/Museum/Gallery

Load/Unload facility in accordance with Section 615

General Agricultural Business

Nursery Commercial

Greenhouse Commercial

Home Occupation

**D. Uses Requiring No Permit (Requires Compliance with Law)** - Select uses do not require a Zoning Permit. However, the Enforcement Officer should be contacted prior to commencing any action to ensure that the use qualifies as not requiring a permit and that this Law as well as other Laws will be complied with.

Horticultural-Private

Recreational Vehicle/Trailer storage in accordance with Section 635

Farm Animals in accordance with Section 627

Junk Vehicles in accordance with Section 622

TV Dish Antennae in accordance with Section 618



**E. Area Standards** - see the following sections: Substandard Sized Lots, Established Front Yards, and Municipal/County Utility Systems.

	<u>Single-Family Units</u>		<u>Nonresidential Uses</u>	
	Primary Use	Accessory Use	Primary Use	Accessory Use
Minimum Lot Size (Square Feet) .....	15,000	.....	15,000	.....
Minimum Lot Width (Feet) .....	100	.....	100	.....
Maximum Lot Cover (% of Lot Area) .....	30%	.....	30%	.....
Minimum Front Yard* (Feet from Street Edge) .....	35	.....35	50	.....50
Minimum Side Yard (Feet) .....	25	.....15	25	.....15
Minimum Rear Yard (Feet) .....	35	.....15	50	.....25
Maximum Height (Feet) .....	30	.....15	30	.....30
Minimum Floor Space (Sq. Ft. - Living Space) .....	1,000	.....		.....

\* Property owners also have the option of utilizing existing front line established by neighboring properties should that existing front line deviate from the bulk regulations cited above.

**SECTION 403 HIGHWAY COMMERCIAL DISTRICT (C2)**

**A. Purpose** - The purpose of the C-2 District is to promote retail and service uses, many of which may be large in size for the use of residents and visitors. At the same time, a major goal is to protect and enhance the community by encouraging aesthetically appealing businesses with safe ingress and egress and prohibiting chaotic strip development.

**B. Uses by Special Use Permit** (Hearing Required)

- Outlet Mall
- Storage Facility
- Hotel/Motel
- Signage
- Nursing Home/Rest Home/Health Center
- Medical Center
- Winery
- Building Material/Home Improvement Store
- Specialty Shop
- Large Box Retail
- Educational Facility
- Medical Research
- Light Manufacturing
- Warehouse/Trans-shipment Center
- Wind Power Electrical Generating Equipment & Facilities
- Solar Energy System in accordance with Section 619

**C. Uses Requiring No Permit (Requires Compliance with Law)**

- Home Occupation
- Solar Energy System
- Outdoor Storage-recreational vehicle (in accordance with Section 635)
- Parking - private in accordance with Section 614
- Storage - accessory structures in accordance with Section 640
- Travel Trailer in accordance with Sections 610,631,635
- Signage in accordance with Section 637
- Junk Vehicles in accordance with Section 622
- Fences/walls in accordance with Section 616
- Heavy vehicle parking in accordance with Section 625

**D. Area Standards**

ALL USES (i.e., Highway Commercial)	Primary Use	Accessory Use
Minimum Lot Size (Square Feet)	15,000	
Maximum Lot Coverage (% of Lot Area)	40%	--
Minimum Front Yard (Feet from Street Edge)	50	50
Minimum Side Yard (Feet)	20	10
Minimum Rear Yard (feet)	50	25
Maximum Structure Height (feet)	40	20

**SECTION 404 RURAL RESIDENTIAL DISTRICT (R2)**

**A. Purpose** - Districts are established to provide for the development of large lot rural properties for residential, limited agricultural and selected commercial uses. This district has an abundant supply of vacant land much of which is rural in character.

**B. Uses Permitted by Right (Permit Required)**

- Single-family Dwelling-detached (conventional, prefab, modular)
- Two-family dwelling-detached (conventional, prefab, modular)
- Agricultural buildings (subject to discussion)
- Temporary retail outlet in accordance with Section 608
- Boat storage business
- Garage-accessory
- Customary accessory use
- Storage structure
- Signs in accordance with Section 637
- Open porch/deck
- Fences/walls in accordance with Section 616
- Demolition
- Agricultural Land Use
- Agricultural Buildings
- Unlimited Agriculture
- General Agricultural Business
- Roadside stand-general
- Farm Animals
- Roadside Stands

**C. Uses by Special Use permit (Hearing Required)**

All other potential land uses shall be subject to special use permit requirements and potential site plan requirements as specified in this Local Law.)

Mobile homes in accordance with Section 628  
 Boarding homes/bed & breakfast in accordance with Section 604  
 Mobile home parks in accordance with Section 629  
 Cluster residential development in accordance with Section 602  
 Nursery/greenhouse-commercial  
 Roadside stand-general  
 Roadside stand-limited  
 Blacksmith shop  
 Household sale (garage sale) in accordance with Section 607  
 Flea market in Accordance with Section 608  
 Gravel & sand operation in accordance with Section 620  
 Mill structure  
 Utilities (quasi-public) (e.g., telephone.)  
 School -public/private  
 Airport/airstrip/heliport in accordance with Section 633  
 Daycare center (in accordance with NYS regulations)  
 Library/museum/gallery  
 Church/rectory  
 Fraternal meeting facility  
 Tennis court-private use  
 Swimming pool-private use in accordance with Section 613  
 Riding academy/stable  
 Ski area-commercial-cross country  
 Recreation camp-private  
 Windmills-private in accordance with Section 617  
 Parking Commercial lot in accordance with Section 614  
 Solar system in accordance with Section 619  
 Signs in accordance with Section 637  
 Fences/walls/hedges in accordance with Section 616  
 Heavy vehicle partying (at residential dwelling) in accordance with Section 625  
 TV dish antenna in accordance with Section 618  
 Temporary mobile home in accordance with Section 631  
 TV radio tower-commercial in accordance with Section 617  
 Food Processing Plant  
 Animal Farm  
 Winery  
 Sawmill  
 General Limited Industry  
 Nursing home/rest homes  
 Homes for the Elderly  
 Gasoline/Volatile fuel tank in accordance with Section 632

Any other use available in Districts R1 or C1 by special use permit pursuant to the same requirements.

**D. Uses Requiring No Permit** (Requires compliance with Law) - Select uses do not require a Zoning Permit. However, the Enforcement Officer should be contacted prior to commencing any action to ensure that the use qualifies as not requiring a permit and that this Law as well as other Laws will be complied with.

Horticultural-Private  
 Recreational Vehicle/Trailer storage in accordance with Section 635  
 Farm Animals in accordance with Section 627

Junk Vehicles in accordance with Section 622

TV Dish Antennae in accordance with Section 618

**E. Area Standards** - see the following sections: Substandard Sized Lots Established Front Yards, and Municipal/County Facility Systems.

	<u>Single-Family Units</u>		<u>Nonresidential Uses</u>	
	Primary Use	Accessory Use	Primary Use	Accessory Use
Minimum Lot Size (Square Feet) .....	15,000		15,000	
Minimum Lot Width (Feet) .....	100	60	100	60
Maximum Lot Cover (% of Lot Area) .....	30%	40%	30%	40%
Minimum Front Yard* (Feet from Street Edge) .....	35	35	35	35
Minimum Side Yard (Feet) .....	25	15	25	15
Minimum Rear Yard (Feet) .....	35	15	35	15
Maximum Height (Feet) .....	30	15	35	35
Minimum Floor Space (Sq. Ft. - Living Space) .....	1,000			

	<u>Multiple-Family Units</u>	
	Primary Use	Accessory Use
Minimum Lot Size .....	15,000	+5,000
(Base Square Feet per Unit) .....	120	+6
Minimum Lot Width (Base Feet per Unit) .....	100	35
Maximum Lot Cover (% of Lot Area) .....	25	+1
Minimum Front Yard* (Feet from Street Edge)		
Minimum Side Yard (Base Feet per Unit) .....	15	+1
Minimum Rear Yard (Feet) .....	+15	
Attached		
Maximum Height (Feet) .....	35	15
Minimum Floor Space (Sq. Ft. - Living Space).....	35	35
Standard Housing .....	1000	
Elderly Housing .....	600	

\* Property owners also have the option of utilizing existing front line established by neighboring properties, should that existing front line deviate from the bulk regulations cited above.

#### **SECTION 405 EXISTING SUBSTANDARD SIZED LOTS**

- A. Purpose** - This section has the purpose of providing flexibility to the administration of this Zoning Law by allowing certain substandard lots to have structures placed on them without the need for an Area Variance.
- B. Conditions** - An allowable use may be placed on a substandard sized lot existing and officially recorded at the time of enactment of this Zoning Law without an Area Variance if the following conditions are met:
1. At the time of enactment of this Law, the substandard parcel was not contiguous with another parcel in the same ownership. Note that, if contiguous substandard lots under single ownership do exist, they must be combined to create a conforming or more conforming lot with respect to minimum lot size and minimum lot width.
  2. The substandard lot is not less than 75% of all of the lot applicable area standards to include minimum lot size, minimum lot width, minimum front yard, minimum side yard, and minimum rear yard for the district in which the use is proposed to be located.
  3. The County Health Department approves the substandard lot where municipal utilities are not accessible.
  4. If Condition B2 cannot be met but B3 has been accomplished, then the applicant can request an Area Variance from the Zoning Board of Appeals (see Variance Section) which will be granted if "Practical Difficulties" are shown to exist.

#### **SECTION 406 VISIBILITY AT INTERSECTIONS**

For the purpose of maintaining sight lines and traffic safety, on a corner lot in any district, no fence, wall, hedge, or other structure or planting more than 3 feet in height shall be erected or placed within the triangular areas formed by the intersecting street edge lines and the imaginary straight line down between the points 25 feet from the intersecting street edge lines along the street edge lines.

#### **SECTION 407 INTERPRETATION OF PERMITTED USES**

When a use is not specifically listed as a "Use by Right" or a "Use by Special Use Permit" within any zoning district, it shall be assumed to be a prohibited use unless it is determined in a written decision by the Board of Appeals that said use is similar to permitted uses, meets the intent specified in the zoning districts, and is not inherently a nuisance, menace, or danger to the health, safety or welfare of the residents of the municipality.

#### **SECTION 408 PRESERVING YARDS, COURTS, & OPEN SPACE**

- A. Preservation of Yards, Courts and in Space** - Rear yards, courts and other open space shall be kept undeveloped in order to meet setback and coverage requirements of this Law except as specified in Subsection B below.
- B. Permitted Obstructions** - the following shall not be considered to be obstructions when located in the preserved yards, courts, and open space:
1. open terraces, patios, awnings and canopies, chimneys, trellises, flag poles, open fire escapes, decks, balconies, and other similar uses which do not extend more than 40% of the required setback nor come closer to a lot boundary line by more than 40% of the required setback; and
  2. bay widows, steps, chimneys, overhangs eaves and gutters and other similar uses shall not extend more than 3 feet from the principal structure nor come within 2 feet of any property lines.
- C. Location** - All yards, courts and open space shall be located on the same undivided lot as the structure for which the setback and area requirements are required. Refer to General Provision on "Contiguous Parcels" in Section 502 and "Number of Residential Dwellings on a Lot" in Section 508.

## **ARTICLE V GENERAL PROVISIONS**

### **SECTION 501 ACCESS TO PUBLIC STREET**

Except as otherwise provided for in this Local Law, every building shall be constructed or erected upon a lot, or parcel of land which abuts upon a public street unless a permanent public easement of access to a public street was of record prior to the adoption of this Law. However, this shall not preclude the creation of a private road on a 50 foot right-of-way which connects to a public road and serves 5 or more subdivided lots. Upon request from a developer, landowner(s), etc., the Municipal Board shall consider the takeover of a private roadway, but only after assurances are received by all involved parties that the roadway will be constructed to standards specified by the municipality. The municipality is in no way obligated to take over any road even if it meets specified road construction standards. Where less than 5 lots are involved, a legal right-of-way of an appropriate width shall be required to connect all lots to a public road when said lots do not abut a public road. The legal right-of-way width shall be suitable to accommodate emergency and fire protection vehicles.

### **SECTION 502 CONTIGUOUS PARCELS**

When 2 or more parcels of land are contiguous and are held in one ownership, they may be used as a 1 building lot. In this case, side yard and rear yard - setbacks shall be required only from perimeter boundary lines and not shared interior parcel boundary lines. See General Provision on Existing Substandard Sized Lots.

### **SECTION 503 CORNER LOTS**

Both street sides of a corner lot shall be treated as front yards in the application of bulk and area requirements and parking.

### **SECTION 504 HEIGHT**

- A. The height limitation of this Law shall not apply to church spires, belfries, cupolas, silos, penthouses (equipment building on flat roof), and domes, not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulkheads, similar features, and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve and shall not exceed in cross-sectional area 20% of the ground floor area of the building.
- B. The provisions of this Law shall not apply to prevent the erection above the building height limit of a parapet wall or cornice for ornament (and without windows) extending above such height limit not more than 5 feet.

### **SECTION 505 TRANSITION BETWEEN DISTRICTS**

- A. **Purpose** - The purpose of this section is to promote harmonious use of land located at zoning district boundaries.
- B. **Conditions** - Where the Permitting Board determined there is a need to protect a residential neighborhood located in a Residential District from a permitted use in an adjacent district, the Board may:
  - 1. Require an artificial or natural buffer such-as a hedge, fence, wall, etc., which shields the residential units from the business use;
  - 2. Require a doubling of the yard setback requirements to protect the neighborhood;
  - 3. Control the positioning of signs, lights, parking, mechanical equipment, and any other features so as to reduce the potential nuisance; or
  - 4. Impose other appropriate requirements.
- C. **Preexisting Uses** - This Section shall only apply to new construction and include additions and enlargements.

### **SECTION 506 DISPUTED LOT LINES**

- A. Purpose** - It is the intent of this section to clarify the procedures to be followed in verifying where lot lines are in order to ensure that area requirements (side yards, etc.) are met.
- B. Procedures** - When the Enforcement Officer is in doubt as to the location of lot lines and it is apparent that new development may not be in accordance with area requirements; the Enforcement Officer shall withhold the granting of the Zoning Permit until one of the following occurs:
1. Applicant provides proof such as a survey accomplished by a New York State licensed land surveyor.
  2. Refer the matter to the Zoning Board of Appeals for an interpretation of documentation provided by the applicant.
  3. Grant Zoning Permit after the applicant receives an Area Variance from the Zoning Board of Appeals.

### **SECTION 507 ESTABLISHED FRONT YARDS**

In an existing neighborhood when structures are not set back from the edge of the road at the distance specified by this Law, it shall be determined by the Enforcement Officer what appropriate setback will be permitted by new construction or by alterations to existing structures in order to aesthetically blend with existing adjacent structures. The varied setback will be based on the average of the setbacks of the 2 adjacent structures minus up to 5 feet. Any variation requested which is in greater variation than that permitted by this rule will require an Area Variance.

### **SECTION 508 NUMBER OF RESIDENTIAL DWELLINGS ON LOT (LOT DIVISION)**

- A. Number of residential dwellings on a lot** - No more than 1 principal detached residential dwelling shall be constructed on a lot.
- B. Division of Lots** - No lot improved with a building or buildings shall hereafter be divided into 2 or more zoning lots and no portion of any zoning lot which is improved with a building or buildings shall be sold, unless all zoning lots resulting from each such division or sale and with a building or buildings shall not be less conforming to all the bulk regulations of the zoning district in which the property is located. However, any portion of a parcel may be removed if it is to be used with an adjacent parcel and the original parcel continues to conform to the bulk regulations.

### **SECTION 509 LOTS IN TWO DISTRICTS**

Where a district boundary divides a parcel at the time of enactment of this Law, the regulations for the district which contains most of the land area of the parcel shall apply to the entire parcel.

### **SECTION 510 DRIVEWAYS WITHIN RIGHT-OF-WAYS**

When property to be developed fronts on a highway and access to the highway is desired, an approved permit from the applicable agency for the development of such highway access shall be presented. The Highway/Street Superintendent may require the installation of an appropriately sized sluice pipe where it is likely that drainage problems exist or may be created by the presence of a driveway on a public right-of-way.

### **SECTION 511 AGRICULTURE**

- A. Agricultural Preservation** - In order to promote, preserve and protect agricultural businesses, any portion of this Law that would reduce operational capability of an agricultural business shall be waived in that one instance. However, where a documented health or safety problem exists or would be created if sections of this Law were not adhered to, then, these sections will be enforced, but even then only to the minimum necessary. Determination or interpretations shall be made by the Zoning Board of Appeals.
- B. Manure Piles** - Manure piles may not be located within 200 feet of any neighboring water well on adjacent or nearby lots.

## ARTICLE VI SUPPLEMENTAL REGULATIONS

### **SECTION 601 GENERAL DEVELOPMENT CONDITIONS**

- A. Purposes** - Development conditions shall be attached to permits or variances when necessary or advisable to reduce or eliminate conflicts between uses or to protect the health, safety, and general welfare.
- B. Areas of Concern** -The following checklist shall be considered by the appropriate Boards and administrators in their reviews of request for Zoning Permits, Special Use Permits and Variances. The checklist is not intended to be all inclusive and does not limit the areas of concern over which conditions may be imposed.
1. *Traffic* - safety of ingress/egress from roadway, intersection visibility, level of anticipated new traffic generation in relation to existing road capacity and traffic, adequacy of off-street parking and loading, pedestrian safety, and/or location of structures in relation to all of the above.
  2. *Business Entrances* - All business uses shall face, have entrances, and display goods such that they are oriented, to the greatest degree possible toward Business Districts and not toward adjacent Residential Districts.
  3. *Safety* - trash disposal, steep slopes, open pits, toxic and/or flammable fluids.
  4. *Health* - sewers/water, sunlight, air movement, junk vehicles and/or trash storage.
  5. *Character of Neighborhood* - development density, traffic volume, lot sizes, compatible uses, and/or buffers.
  6. *Public Costs* - road damage, need for new roads, and/or need for new utilities.
  7. *Environmental Protection* - flood plain, wetlands, and/or natural features.
  8. *Nuisances* - noise, odor, dust, lights, hours of operation, lot size, buffers, and/or nuisance location.
  9. *Land Use Preservation* - agriculture, and/or open space.
  10. *Aesthetics* - restoration, appearance, scenic views, and/or buffers.
- C. Failure to Comply** - Applicants who have received Variances or Special Use Permits with conditions attached shall be responsible for continual compliance with the specified conditions. Non-compliance with any condition shall result in revocation of the Variance/Special Use Permit and continuance of the use shall only be allowed after reapplication for the Variance/Special Use Permit.

### **SECTION 602 CLUSTER RESIDENTIAL DEVELOPMENT**

- A. Purpose** - Cluster residential provisions for single-family subdivisions and attached Multiple-family projects are intended to allow flexibility where desirable to permit and encourage superior development of relatively large undeveloped sites; development aims may include the preservation of views or natural features, provision of amenities for common use, including recreational facilities not feasible on individual lots, and innovative groups of dwellings which will provide desirable variety in the municipal housing stock. To carry out this purpose, standards for individual lot area and dimensions may be reduced from the standards of the district in which the cluster is located, if compensating permanent common area ancillary to the dwelling units is provided.
- B. Standards for Development of Single-Family Clustered Subdivision** -
1. A cluster single-family residential development shall not be less than 5 acres of contiguous undeveloped area under single ownership.
  2. Uses permitted shall be limited to the residential uses permitted in the district in which the cluster development is located.
  3. An approved municipal or community sewage system and water system must be utilized.
  4. Maximum permitted reductions in individual lot standards - any lot in a cluster development may be reduced from the standards of the district in which it is located by the following or lesser amounts:



- a. minimum lot area may be reduced by up to 25% of the required area.
  - b. minimum lot width may be reduced by up to 25%.
  - c. minimum Yard requirements (front, side, and rear) may be reduced up to 25% where the lots are not adjacent to an existing public roadway.
5. Compensating permanent common area ancillary to the dwelling units shall consist of all land and recreational areas held in common by the owners of the dwelling units in the development. This shall include but not be limited to private streets, parking lot areas, utility systems, parks, buffer areas, recreational areas to include tennis courts, pools, golf courses, storage areas, and wetlands. Permanent common areas shall be legally set aside and developed for the common use and enjoyment of all residents of the cluster development and appropriate convenient access shall be provided.
  6. Compensating permanent common area shall equal or exceed 25% of the total of individual lot area reductions.
  7. Applicable general provisions and supplemental regulations of this Law shall apply to all cluster residential development.

**SECTION 603 MULTIPLE DWELLINGS**

**A. Purpose** - Attached multiple dwellings, in districts where allowed shall be subject to Special Use Permits and where 3 or more units or projects involving more than 5,000 sq. feet of floor space, site plan review requirements shall also apply. Each development proposal shall be evaluated on its own merits with reasonable conditions attached.

**B. Conditions** - The following shall be considered where appropriate for inclusion.

1. Special Use Permit Conditions:
  - a. Safe ingress and egress.
  - b. Roadway ownership and design. Insure roadways and fire lanes are adequate for year-round fire equipment movement.
  - c. Parking in accordance with the supplemental Section 614 and additionally, auxiliary parking.
  - d. Storage facilities such that adequate indoor storage is available. See supplemental Sections. Utilities to include sewer, water, telephone, electric, cable TV, etc. See supplemental Section 618 on TV dishes.
  - f. Common property ownership and the creation of an owner's association.
  - g. Sign size, location, lighting, etc. See supplemental Section 637 on signs.
  - h. Recreational uses, active and passive.
  - i. Buffers, natural and man-made as necessary.
  - j. Density of development as specified in the area requirements.
  - k. Other reasonable and appropriate conditions as deemed necessary by the Permitting Board. See supplemental Section on development conditions.
2. Site Plan Review Conditions - See site plan review Section 1101 B.

**C. Application and Procedures for Establishing a Cluster Residential Development -**

1. Application for establishing a cluster residential development shall be made to the Zoning Enforcement Officer who shall refer the application to the Municipal Board and Planning Board.
2. This application shall include:
  - a. names and addresses of owner and developer;
  - b. written statements concerning need for development and suitability of site, potential impact on abutting properties and the neighborhood, development schedule for private and common areas, method of disposition of common areas including pertinent documents regarding owner's association or other organization and long-term maintenance, estimates of annual maintenance costs, other pertinent information;

- c. location map drawn to scale of not less than 1 inch equals 1.000 feet showing subject parcel, existing and proposed access streets and nature of abutting development;
- d. overall development plan drawn to scale of 1 inch equals 10 feet with contour interval of 2 feet, showing exact size and shape of the subject parcel, natural features to be preserved, proposed residential lots and their dimensions, internal and surrounding streets and all other provisions for pedestrian and vehicular access and circulation, off-street parking and loading areas, utility rights-of-ways or installations on or near the property, location, dimensions and area of proposed open space or other commonly held facilities which are part of the compensating permanent common area, comparison of total area of residential lot reduction with total area of common area, nature and location of public or private Utilities which would serve the residential cluster;
- e. preliminary landscaping and drainage plans at a scale of 1 inch equals 10 feet with 2 foot contour intervals and;
- f. preliminary architectural and engineering drawings to show the nature of residential and open space or recreational facilities proposed.

**D. Action by Municipal (Permitting) Board and Planning Board –**

- 1. The Permitting Board will review and rule on the application for a cluster residential development expeditiously as practical and in no case later than 90 days after all information required for the application is received. The Planning Board shall make a recommendation to the Permitting Board in accordance with the article on Planning Boards.
- 2. The Boards will consider
  - a. need for development and suitability of site;
  - b. impact on the neighborhood, circulation system, and municipality as a whole;
  - c. feasibility and practicality of providing and maintaining common areas, including costs to prospective homeowners;
  - d. need for complete disclosure to prospective buyers of future costs and responsibilities in connection with common areas;
  - e. need to require performance bond if nature of development warrants; and
  - f. other factors which affect the viability of the proposal and the general welfare of the municipality.
- 3. The Permitting Board may request preliminary meetings with the applicant to provide additional information or explain the proposal.
- 4. The Permitting Board may hold an informational meeting in addition to a required public hearing to receive local opinion and reaction and shall take information concerning the proposal available to the public before such meeting.

**SECTION 604 BED & BREAKFAST**

- A. Purpose** - The conversion of existing dwellings to bed and breakfast uses shall be regulated in accordance with this section for districts where conversions are specifically listed as being allowed uses. The purpose of this Section is to provide guidelines which will ensure that any conversion will not result in a significant adverse change in a residential neighborhood.
- B. Conditions** - the following conditions shall be considered by the Permitting Board for attachment to the permit.
  - 1. *Lot Size* - For each bedroom proposed to be utilized by a traveler, there shall be an additional lot area of 1,000 square feet over the minimal lot size required by the district.
  - 2. *Number of Bedrooms* - A maximum of one bed and breakfast bedroom shall be allowed for 1,000 square feet of livable floor space with a maximum of 5 allowed.

3. *Parking* - Convenient off-street parking shall be available at a rate of 1 space per proposed bed and breakfast bedroom. These spaces shall be located beyond the minimum front yard setback line. Natural or artificial buffers may be required as necessary by the Permitting Board.
4. *External Modifications* - No external modifications of a structure shall be allowed in conjunction with the creation of a bed and breakfast. All internal modifications shall be accomplished in accordance with the NYS Uniform Building Code.
5. *Existing Structures* - only dwelling units existing at the time of enactment of this section shall be eligible for conversion to a bed and breakfast. Garages or accessory buildings shall not be utilized.
6. *Signs* - In addition to all requirements of the supplemental sign Section, signs shall be constructed of natural materials and shall not be illuminated. Other reasonable conditions may be imposed in order for the sign to blend into the neighborhood.
7. *Location* - A bed and breakfast shall only be established on a state or county road in Residential Districts where listed as a permitted use. They may be located anywhere in Business Districts where allowed.
8. *Nuisances* - Outside activities shall not be permitted by guests where it will create a nuisance or in any way alter the character of the neighborhood.
9. *Other Conditions* - any other reasonable condition as deemed necessary by the Permitting Board shall be permissible.

#### **SECTION 605 HOME OCCUPATIONS**

- A. Standards** - In Districts where allowed. Home Occupation shall meet the following conditions:
1. *Use of Accessory Building* - Any home occupation proposing utilizing an accessory structure shall require a special use permit before its actual utilization.
  2. *Number of Employees* - Family employees allowed shall be two (2). Non-family employees allowed shall be one (1)
  3. *On-Premise Sales* - Goods may be sold on premise.
  4. *Products* - the quantity, type and place of manufacture for all goods to be sold may be regulated.
  5. *Outside Display* - Goods may not be displayed outdoors.
  6. *Signs* - One sign up to a maximum of 2 square feet in size and no higher than 5 feet (to the top of the sign) shall be allowed on premises.
  7. *Parking* - Off-street parking shall be required sufficient to handle peak periods.
- B. Nuisances** - No nuisances as defined in the definition Section shall be allowed. Effects on the character of the neighborhood shall be minimal.
- C. Preexisting Home Occupations** - Home occupations legally existing before the enactment of this Law shall not generally be required to comply with the above conditions. However, where there is clear evidence that a nuisance is present due to an increased level of activity or a substantial change in the nature of the Home Occupation, then the use shall be subject to a Special Use Permit proceeding and any of the above conditions may be imposed on the use where reasonably possible.

#### **SECTION 606 PROFESSIONAL OFFICES**

- A. Professional offices may be allowed by Special Use Permits in accordance with the following specific conditions:
1. **Parking** - Adequate off-street parking must be provided in order to handle peak parking. Adequate space for expansion of parking and/or the maneuvering of vehicles must be provided.
  2. **Traffic Safety** - the ingress/egress system must be designed so as to minimize potential traffic safety problems.
  3. **Signs** - Only 1 sign for the purpose of advertising the business shall be allowed on the premises, and it shall be in accordance with the sign section. Additionally, it shall be not higher than 5 feet in height to the top of the sign.

4. **Buffer** - A proper buffer zone shall be provided to protect adjacent properties if deemed necessary.
  5. **Hours** - the hours and days of operation may be included as a condition for the granting of the Special Use Permit.
  6. **Lot Size** - The overall size of the property must be such that it is capable of supporting the professional office operations and any related activity while at the same time maintaining appropriate open space.
  7. **Neighborhood** - the general character of the neighborhood must not be substantially changed by the presence of professional offices, nor shall there be a resultant devaluation of adjoining properties.
- B. Professional offices may also be utilized pursuant to Section 605 Home Occupations and the standards applicable thereto

#### **SECTION 607 HOUSEHOLD SALES**

- A. **Purpose** - In order to preserve the character of neighborhoods, garage and other similar type of noncommercial sales (lawn sales, household sales, flea markets, etc.) shall be subject to regulations.
- B. **Conditions** -
1. *Frequency* - Sales shall be limited to 3 periods of 3 days each per year per property owner with no permit being required. If more than 3 sales are to be held, a Special Use Permit must be obtained.
  2. *Signs* - Refer to supplemental sign section. Exempt Sales - All public or civic nonprofit organizations shall be exempt from the requirements of this section.

#### **SECTION 608 TEMPORARY RETAIL OUTLET**

- A. **Purpose** - Temporary Retail Outlets provide needed products at convenient locations. Assuring that these temporary businesses are conducted safely and in an aesthetically acceptable manner are the primary purposes of this Section.
- B. **Conditions** - Prior to being granted a Zoning Permit, the Enforcement Officer shall insure that the following conditions are met:
1. *Signs* - All sign requirements of the supplemental Section 637 on signs shall be complied with.
  2. *Location* - Permission in writing from the owner of the property on which the Temporary Retail Outlet is to be located shall be provided prior to being granted a Zoning Permit.
  3. *Safety* - Safe entry and exit to and from the site must be assured along with sufficient off-street parking.
  4. *Cleanup* - at no time during the operation shall any junk or debris be allowed to accumulate. At the conclusion of a selling period the site shall be restored to its original state. Displaying of retail goods shall be accomplished in a neat and orderly fashion.
  5. *Hours* - the dates and hours of operation shall be clearly defined.
  6. *Sale Items* - the type of retail goods to be sold shall be specified along with the quantity.
- C. **Administration** - In districts where Temporary Retail Outlets are specified as being allowed, the Enforcement Officer shall grant a "by right" Zoning Permit after all conditions in Part 6, above, have been met. Said permit shall cover as a maximum 1-year period only.

#### **SECTION 609 RESTAURANTS**

- A. **Purpose** - Restaurants are regulated in order to provide safe, appealing establishments with minimal nuisances present.
- B. **Permanent Conditions** - the following conditions must be met as required by the Permitting Board in order to receive the Special Use Permit.
1. *Parking* - See supplemental Section 614 on parking to determine the number of off-street parking spaces required. The location and layout of the parking spaces may be specified in the permit.
  2. *Traffic Safety* - the entrance and exit location and size shall be safely designed with minimal obstructions. Pedestrian safety shall also be considered.
  3. *Nuisances* - Noises from electric motor, compressors, etc., or glare from lighting shall be minimal.

4. *Signs* - All sign regulations as specified in the supplemental Section 637 shall be complied with fully.

#### **SECTION 610 VEHICLE REPAIR SHOP/AUTO BODY REPAIR SHOP**

- A. Purpose** - Vehicle Repair Shops & Auto Body Repair Shops are regulated to promote safe and property located shops which are visually attractive to the greatest extent possible.
- B. Conditions** - the following conditions shall be met:
  1. *Vehicle Storage* - any vehicle stored outside shall be enclosed within an appropriate fence which shall make it nearly impossible to view the vehicle.
  2. *Hours of Operation* - the hours of operation shall be derived so as to limit the noise during non-business hours.
  3. *Area Requirements* - The shop shall be allowed only if it is to be located at least 200 feet from existing residential structures located on adjacent parcels.
  4. *The supplemental Section 623 (Trash Storage)* shall be complied with.
  5. *Other Conditions* - Refer to the supplemental Section 601 on general conditions.
- C. Preexisting Uses**
  1. *Expansion and Enlargements* - All expansions or enlargements of repair shops in existence prior to enactment of this Law shall be subject to Fences, Section 616.
  2. *Preexisting Uses* - Where it is determined at a public hearing held by the Municipal Board that a nuisance exists with a preexisting use, then *B1-Vehicle Storage*; and/or *B2-Hours of Operation*, can be enforced within a reasonable time period.

#### **SECTION 611 VEHICLE SALES**

- A. Purpose** - For the purpose of promoting a safe and aesthetically pleasing motor vehicle sales lots, the following conditions are proposed:
- B. Conditions**
  1. *Lot Size* - Land area must be sufficient to handle vehicles, ingress and egress, and off-street parking.
  2. *Location* - All vehicles being offered for sale shall be set back a minimum of 25 feet from the street edge and neatly arranged in an organized manner. Vehicles not offered for sale shall be located behind the building and, if necessary, it may be required that they be fenced in so as not to be visible.
  3. *Signs* - All signs and advertising devices must comply with the supplemental sign section.
  4. *Traffic Safety* - Ingress and egress must be safely located.

#### **SECTION 612 VEHICLE SERVICE STATIONS**

- A. Purpose** - Service stations as defined in the definitions section, are regulated in this section to promote safe and property located stations which are visually attractive.
- B. Location** - All motor vehicle Service stations shall be so arranged, and all gasoline pumps shall be so placed in accordance with the NYS Uniform Code or other applicable state regulations.
- C. Inoperative Vehicles** - Inoperative vehicles and parts of motor vehicles shall be enclosed within an appropriate fence which shall make it nearly impossible to view the vehicle from adjacent properties or roadways.
- D. Waste Materials** - All waste material, motors, and motor parts, will be stored within the structure or enclosed within fencing so as not to be visible from off the property.
- E. Preexisting Stations** - Motor vehicle service stations in existence before the enactment of this Law shall be subject to *C-Inoperative Vehicles* and *D-Waste Materials* above. Compliance shall take place within 6 months. In addition, any expansion or enlargement of motor vehicle service stations shall be subject to all regulations in this Law within reason as determined by the Municipal Board. Where compliance will conceivably create a hardship, it shall be the option of the owner of the nonconforming use to apply for a Use Variance.

### **SECTION 613 SWIMMING POOLS - PRIVATE**

- A. Purpose** - the primary purpose of this Section is to promote the safe installation and maintenance of private swimming pools.
- B. Conditions** - Private swimming pools shall be required to meet the following conditions and any applicable NYS regulations:
1. *Permits* - It shall be unlawful to maintain, construct, erect, install, modify, alter, demolish or change any swimming pool or to permit any such acts, without first obtaining a Zoning Permits and then only as an accessory to a dwelling for the private use of the owners or occupants of such dwelling and their families and guests.
  2. *Fences* - Every permanent private swimming pool, and every portable private swimming pool less than 4 feet high, now existing or hereafter constructed, installed, established, or maintained, the wall or supporting structure of which is not at least 4 feet above ground level, shall be enclosed with a fence of durable construction of a type approved by the Building Inspector of not less than 4 feet in height or by a wall or a building or structure. A fence of similar construction and height erected on the lot lines, which, with additional fencing of any open areas completely encloses the pool area, shall be deemed a sufficient enclosure for the purpose of this Section. All pools (in ground and above ground) shall be provided with 1 or substantial, self-closing and self-latching gates or doors of at least the height of the fence, and said enclosure and gates or doors thereof shall be so designed and constructed as to reasonably prevent any person from gaining access beneath, through or over the same. Every gate or door of such fence shall be kept securely locked at all times when the pool is not in use. Every wading pool shall be enclosed by a durable wall, barrier or fence as described unless such outdoor wading pool is:
    - a. Emptied when not in use or unattended; or
    - b. Covered with a suitable, strong protective covering fastened, or locked in place when not in use or unattended.
  3. *Noise* - Such pool shall be equipped with an integral filtration system and filter pumps or other mechanical devices which shall be so located and constructed as not to interfere with the peace, comfort, and repose of the occupant of any adjoining property.
  4. *Setback Requirements* - Pool shall be installed in accordance with the area requirements of the appropriate district.
- C. Preexisting uses** - Pools in existence prior to the enactment of this Law shall, within 2 months, comply with the following conditions in the previous paragraph *B2-Fences and any applicable NYS regulations*.

### **SECTION 614 PARKING, OFF-STREET**

- A. Purpose** - Off-street parking space(s) with a proper and safe access shall be provided within a structure or in the open to serve adequately the uses on each lot within the district. Any application for a Zoning Permit for a new or enlarged building structure or change in use shall include with it a plot plan drawn to scale and fully dimensioned, showing any parking in compliance with the regulations of this Law. However, in existing Commercial Districts, parking shall only be required to be provided for new development where it is reasonably possible.
- B. Size requirements** - A required off-street parking space shall be an area of not less than 162 square feet, not less than 9 feet wide by 18 feet long, exclusive of access drives or aisles, ramps, columns, or office and work areas. Aisles between vehicular parking spaces shall not be less than 12 feet in width when serving automobiles parked at a 45 degree angle in one direction not less than 20 feet in width when serving automobiles parked perpendicular to the aisles and accommodated 2-way traffic.
- C. Street Access** - Periling facilities shall be designed with appropriate means of vehicular access to a street or alley in such a manner as will least interfere with the movement of traffic.

- D. Location** - No parking space nor portion thereof established on the same zoning lot with a building shall be located within a required front yard and no parking spaces nor portion thereof established on a lot without a building shall be located closer to any street line than the front yard setback requirements of this Law in the same manner as a building or structure. The aforementioned required setbacks shall not be applicable to Business District, nor to residential driveways which may be used for parking.
- E. Residential driveways** shall be a minimum of 5 feet from all perimeter parcel boundaries where reasonably possible. For nonresidential off-street parking, the Municipal Board may, upon request by the applicant, allow certain parking spaces off the applicant's property but within 500 feet of said property to be included as part of the required spaces.
- F. Material Composition** - All open off-street parking space and access areas, except those accessory to single-family dwellings and duplexes shall be surfaced with some all-weather low dust materials such as stone, gravel, or macadam.
- G. Number of Spaces** - The following parking spaces shall be provided and satisfactorily maintained by the owner of the property, for each use which, after the date when this Law becomes effective, is erected, enlarged, or altered for use for any of the following reasons (uses):
  - One-Family Residence & Mobile Home
  - Two-Family Residence
  - Multi-Family Residence
  - Church
  - Home for Aged
  - Elementary School
  - High School & College
  - Library
  - Places of Assembly. Inc., Convention
  - Hall & Dance Hall
  - Club, Lodge (without Sleeping Accommodations)
  - Places Providing Sleeping Accommodations, Inc. Hotels, Motels, & Tourist Homes
  - Mortuaries or Funeral Parlors
  - Offices, Banks
  - Food Market
  - Eating & Drinking Establishments
  - Bowling Alley
  - Other Commercial
  - Industrial
  - Other Uses not Listed Above

**SECTION 615   LOADING & UNLOADING**

- A. Need** - Off-street loading and/or unloading spaces for non-farm commercial vehicles while loading and/or unloading shall be provided for new uses where it is deemed that such facilities are necessary to serve the use or uses on the lot. Off-street loading and/or unloading space shall be provided for all commercial establishments as necessary as determined by the Permitting Board.
- B. Size** - Each loading and/or unloading space shall be at least 14 feet wide, 60 feet long and shall have at least a 15 foot vertical clearance; shall have a 60 foot maneuvering area. Refer to Variance Section 904 where this requirement cannot be met.
- C. Use of Parking Spaces** - Generally parking space shall not be used for loading and/or unloading purposes except during incurs when business operations are suspended or if pedestrian and vehicle traffic will not be obstructed. However, the Permitting Board may allow the use of parking spaces when it is determined that the effects will be minimal.

- D. Design** - Loading and/or unloading facilities shall be designed so that trucks need not back in or out, or park on any public right-of-way. No truck shall be allowed to stand in a traveled roadway or pedestrian walkway or in any way block the effective flow of persons or vehicles. The loading and/or unloading area shall have an all-weather surface to provide safe and convenient access during all seasons.

**SECTION 616 FENCES, WALLS, and HEDGES**

[Supersedes and Replaces the original Section 616, Adopted 2022-12-14 by LL #4 of 2022]

- A. Purpose** - To prevent solid and semi-solid fences, walls, and hedges from materially obscuring vision or shutting out light, sun or air resulting in potentially unsafe or unhealthy conditions for residents, motorists, or pedestrians, while providing a quality of living standard that conforms to the general character of the neighborhood.
- B. Building Permit and Fees.**
1. A building permit shall be required before any fence or wall may be erected or placed. Applications shall be made with the Village Enforcement Officer for code and zoning. The application shall contain a physical description of the design (drawing) and the material, and a sketch of the location of the proposed fence upon the property.
  2. A building permit shall not be required for fences and walls used for agricultural purposes in a Rural Residential District (R2), however the fence must still be erected in accordance with this section of the local law, exempt only from Height and Setback so long as the fence or wall does not materially obscure the vision creating unsafe conditions.
  3. A building permit fee or applicable special use permit fee or variance fee shall be established by resolution of the Village Board of Trustees of this Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.
- C. Design and Construction.**
1. **Materials.**
    - a) Fences and walls must be constructed of permanent, durable materials, such as brick, stone, concrete, textile block, wood, iron, steel, aluminum, PVC, wrought iron, vinyl, or chain-link.
    - b) No solid or tight fence shall be constructed of secondhand or used lumber or used composite material.
    - c) Fence material strictly prohibited in all districts for any use includes barbed wire, concertina wire, razor wire, and tarps.
    - d) Except for animal husbandry, stables, and kennel uses, no fence or wall shall be constructed of chicken wire, or electrically charged wire. Electrically charged fences are required to have a pulsating charger or energizer.
    - e) This provision of the law excludes underground dog fences; there is no building or special use permit required for an underground fence so long as the fence is within the property lot line and installation is done in accordance with the U-Dig Law (Call 8-1-1).
    - f) The fence or wall shall conform to the general character of the neighborhood.
  2. **Height.**
    - a) Fencing and walls along the side and rear of lots may have a maximum height of seventy-two (72) inches measured from the average ground level within two (2) feet of the base of the fence or wall. An additional one (1) foot of height is allowed, above the maximum permitted height, for posts, columns, light fixtures, or other decorative details.
    - b) Fences and walls along front lot lines or within a front yard must not exceed four (4) feet in height.



3. **Setback.**

Setback from Sidewalk – Fences and walls shall be set back a minimum of ten (10) feet from the inside (residence side) of the sidewalk. If there is no existing sidewalk, it would be ten (10) feet from where the sidewalk would be as determined by the Village Streets Department Superintendent.

4. **Proximity to Neighboring Property.**

Fences and walls will be allowed up to property line, with proof of known lot lines.

5. **Finished Sides.**

a) The finished sides of all fences must face adjacent properties.

b) No fence shall be used as advertising, billboard, or poster purposes.

6. **Maintenance.**

All fences and walls will be maintained structurally and visually.

**D. Plants, Trees, Shrubberies, Hedges.**

1. **Proximity to neighboring property** – any trees, shrubberies, hedges, or plants used to form a wall or fence may be planted up to the property line. (*However, it is recommended that planting is started no closer than ‘the estimated center of the circumference of the plant at its full growth’ to the lot line allowing said trees, shrubberies, and plants room to grow.*) Refer to NY State Laws related to growth encroaching on neighboring properties.

2. **Setback** for trees, shrubberies, hedges, and plants **used to create a wall, barrier, or fence** shall be set back a minimum of ten (10) feet from the sidewalk (inside or residence side). If there is no existing sidewalk, it would be ten (10) feet from where the sidewalk would be as determined by the Village Streets Department Superintendent.

3. **Maintenance of shrubberies, hedges, and plants used to create a wall, barrier, or fence** is the owner’s responsibility, so they do not become a nuisance or invade neighboring properties.

4. **Maintenance of trees** – refer to NY State Laws related to growth encroaching on neighboring properties.

5. **The height of shrubberies and hedges used to create a wall, barrier, or fence** will be allowed a maximum height of six (6) feet along side, and back lot lines, maximum of four (4) feet in front yards.

**E. Temporary and Seasonal Fences.**

Temporary and seasonal fences, including but not limited to plastic construction fence (a.k.a. snow fence), require a special use permit.

**F. Temporary and Seasonal Markers.**

1. **Setback** for temporary or seasonal marker may be placed up to the property line.

2. **Types** of temporary and seasonal markers are required to have reflective material: fiberglass driveway sticks, pickets, reflector sticks, and metal posts to guide snow removal equipment and to guide vehicles along driveway or walking path.

3. **Seasonal markers** will only be permitted between the dates of November 1<sup>st</sup> and April 1<sup>st</sup>.

**G. Swimming Pools.**

Refer to NYS Uniform Fire & Building Code for the requirements and building permit required for swimming pool fences.

**H. Enforcement.**

The authority having jurisdiction, Enforcement Officer, Code Officer, Zoning Officer, or Building Inspector shall have concurrent jurisdiction to enforce, and make decisions regarding this article.

**I. Violations.**

1. If the determination of the Enforcement Officer for code or zoning, or a Building Inspector, is that a violation has occurred, the authority having jurisdiction shall notify the owner, in writing, and he shall be required to correct the violation within ten (10) working days or be subject to the penalties for the violations.
2. Violations are subject to fees, fines, possible jail time, and removal of Fencing, Walls, Trees, Shrubberies, Hedges, Plants, and seasonal markers by the Village.

**J. Penalties for offenses.**

In addition to reimbursing the Village for the cost of removal, repair, or restoration, (pursuant to Section 1202 herein):

1. Any violation of this section shall be deemed an offense punishable by a penalty fee; the schedule of fees that shall be established by resolution of the Village Board of Trustees of the Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.
2. Violation of the provisions of New York State Uniform Fire and Building Code shall be deemed an offense punishable by such fine and imprisonment as stated in the New York State Uniform Fire and Building Code.

**K. Preexisting Fences, Walls, and Hedges.**

1. Fences, walls, and hedges in existence at the date of enactment of this section will be required to be brought into full compliance with this section within one (1) year from the effective date thereof.
2. The Village of Sherman herein waives the ZBA Variance Fee for the fences, walls, and hedges in existence at the time of the enactment of this law that seek variance requests within one (1) year from the date of enactment of this section.

**SECTION 617 TOWERS/WINDMILLS/ANTENNAS**

**A. Towers, windmills, and antennas** shall be allowed in districts where permitted, after the certain conditions have been considered for inclusion in the permit.

**B. Definitions** - Certain words and terms used in this Local Law are defined as follows:

**ACCESSORY STRUCTURE** - A non-habitable accessory facility or structure serving or being used in conjunction with communications tower and/or similar facility or antenna and located on the same lot as the communications tower or antenna. Examples of such structures include utility or transmission equipment, storage sheds or cabinets.

**ANTENNA** - A system of electrical conductors that transmit or receive radio frequency signals. Such signals shall include but not be limited to radio, television, cellular, paging, personal communication service (PSC), and microwave communications.

**CO-LOCATED ANTENNAS** - Telecommunication's Facilities that utilize existing towers, buildings, or other structures for placement of antennas and do not require construction of a new tower.

**FALL DOWN ZONE** - The radius around a tower within which alt portions of the tower and antennas would fall in event of a structural failure of the tower.

**PERSON** - Any individual person, or persons, firm, partnership, corporation, whether business, membership, religious, charitable, or otherwise any association or other unit or entity owning or occupying real property in the Village of Sherman.

TELECOMMUNICATION FACILITIES - Towers and/or antennas and accessory structures together used in connection with the provision of cellular telephone service, personal communications services, digital and/or data communication services, paging services, radio and television broadcast services and similar broadcast services.

TOWER - A structural designed to support antennas, it includes without limitation freestanding towers, guyed towers, monopoles, and similar structures, which do, or do not, employ camouflage technology.

WINDMILL - A structure designed to utilize the force of the wind for generating mechanical, electrical, or other locomotive power for any purpose.

**C. Conditions** - The following conditions shall be considered for inclusion in a Telecommunication facilities/tower/windmill permit:

1. *Location* - Shall be sufficiently removed from surrounding residential structures and residential districts so as to not cause a nuisance due to appearance, or other factors. The setbacks shall be determined as part of the special use permitting process. As a function of safety requirements, specific board consideration will be made on the requirements of the proposed site, the height of the proposed project, the use or non-use of any advanced technology, including stealth technology, so as to minimize neighborhood intrusions and the mode of proposed construction of the facility in question.
2. *Buffer*- The placement or retention of buffers shall be required where they would improve the compatibility of the use with the surrounding area.
3. *Safety* - The base shall be sufficiently protected from entry either by design or by protective fences, etc. Where guy wires are utilized, the anchor points shall be sufficiently protected to minimize the possibility of hitting the guy wires when passed by a recreation vehicle, tractor or motor vehicle. Additionally, a sign shall be conspicuously placed near the base and it shall generally state that danger exists and that no unauthorized access is permitted.
4. *Lighting* - The minimal amount of lighting necessary to meet State and Federal regulations shall be required. The FAA regulations shall be met. Light pollution and/or light spill over shall be minimized to the greatest degree possible. The applicant shall fully disclose methods and plans for protecting nearby and distant properties from light spill over.
5. *Aesthetic Impact* - The base and any accessory buildings shall be appropriately screened relative to the type and design of uses in the area. Landscaping and materials used for accessory structures shall be specified. The entire facility must be reasonably compatible with the surrounding environment. The permitting board may consider, and if need be require, the use of stealth technology in order to mitigate any adverse impact of any proposed facility within a given neighborhood or proposed site.
6. *Co-location* - In order to minimize proliferation communication towers applicants must show proof that they have exhausted all reasonable alternatives for sharing space upon existing structures.
7. *Inspections* - Periodic inspections will be required to ensure structural integrity. The frequency of inspections shall be specified, with five-year intervals recommended. Inspections shall be conducted by a licensed engineer. Based upon the results of an inspection, repair or removal maybe required.
8. *Abandonment* - Owners shall remove ail structures that have not been used for a twelve-month period. Removal shall be within six months of written notification from the zoning officer. Owners may request a special use permit hearing to ask for an extension of the removal based upon just cause, i.e. financial hardship.
9. *State Environmental Quality Review Act* - All such proposals for development of facilities herein shall be fully subject to the 'State's Environmental Quality Review Act' (SEQRA). In reviewing same, any application shall be considered a Type I Activity under SEQR, which will require the filing and consideration of a 'Long Environmental Assessment Form' along with such other and further reviews including a 'Visual Addendum' as appropriate to ensure compliance with SEQR.

10. *Performance & Damages Bond* - Each applicant upon being granted a permit shall post a performance and damages bond, guaranteeing removal of the said facility in the amount sufficient, at the time of the permit's granting, to remove said facility, which shall be forfeited to the Village upon owner's failure to comply with the terms of its permit and upon notification of such violation by the Zoning Enforcement Officer. Owner may within ten- days of such notification request a hearing before the Board of Appeals to contest such notice. A new performance bond shall be filed with the Village's Zoning/Enforcement Officer within five-days of such notice of forfeiture. Said performance bonds will be increased to a then current sum required for removal should said amount increase over time. This determination will be made as part of the periodic inspection program for the facility but shall be not less frequent than five-year intervals.
11. *Other Regulations* - State and Federal regulations governing structures subject hereto must be complied with by applicant.

### **SECTION 618 TV DISH ANTENNAS**

- A. **Purpose** - the purpose of this section is to protect the aesthetic values of the neighborhood and the health and safety of its citizens. This section recognizes that the most visible parts of our environment are the public streets and the abutting front yards, and that the appearance of these areas largely sets the character and quality of our environment, TV dish antennas are intrusive and incompatible elements when installed in front yards and seriously impair the aesthetic qualities of residential streets and properties. Further, dish antennas in highly visible and accessible locations are an attractive nuisance for small children who might attempt to climb and play on them, and a tempting target for vandals; particularly, during hours of darkness. Therefore, it is the intent and purpose of this section to require that TV dish antennas be located inconspicuously on private property in residential districts.
- B. **Location** - Primary structure area standards (front, side, and rear yards) shall be met. Dish antennas if attached to a house or other structure may be located on any side so as to optimize satellite acquisition. If a dish antenna is not to be affixed to the house it shall not be located in a front yard and they shall be as inconspicuously located in relation to adjacent structures as is reasonably possible.

### **SECTION 619 SOLAR ENERGY SYSTEMS**

[Supersedes and Replaces the original Section 619, Adopted 2021-07-14 by LL #1 of 2021]

- A. **Purpose** – the Village Board of the Village of Sherman, exercising the authority granted under the Village Law of the State of New York to protect the health, safety, and welfare of the residents and property owners of the Village of Sherman does hereby enact this Section to regulate the construction, maintenance, and placement of solar energy systems and equipment in the Village of Sherman. The purpose of this regulation is to balance the potential impact on neighbors when solar collectors may be installed near their property, while preserving the rights of property owners to install solar collection systems without excess regulation. The Village of Sherman recognizes the importance of solar systems in generating electricity for on-premise use, the reduction of greenhouse gas emissions and support for emerging solar system economic development.
- B. **Definitions** – as used in the Section, the following terms shall have the meaning indicated:

**BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV)** – A solar energy system that consists of integrating photovoltaic modules into the building structure. Technologies include PV shingles or tiles, PV laminates and PV glass. Examples of placement include vertical facades, semi-transparent skylights, awnings, fixed awnings, and roofs.

**COLLECTIVE SOLAR** - Solar installations owned collectively through subdivision homeowner associations, college student groups, "adopt a solar panel" programs similar arrangements or commercial entities.

**GROUND MOUNTED SYSTEMS** - A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure.

**LARGE-SCALE SYSTEM** - Solar energy systems located on land in the Village of Sherman used primarily to convert solar energy into electricity for off-site consumption or sale and/or systems that have the capacity to produce more than 25KW per hour of energy.

**NET-METERING** - A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage.

**ROOF-MOUNTED SYSTEM** - A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush mounted system or as modules fixed to frames which can be tilted toward the sun at an optimal angle. Roof mounted systems shall be located on a roof of a permitted principal use or accessory structure.

**SMALL-SCALE SOLAR** – Small-Scale Solar means a solar energy system that is installed and placed for the production of energy for consumption only on site, and that has the capacity to produce less than 25KW per hour of energy.

**SOLAR EASEMENT** - An easement recorded pursuant to the New York State Real Property Law 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

**SOLAR ENERGY EQUIPMENT** - Energy storage devices, materials, hardware, or electrical equipment and conduit associated with the production of electrical energy.

**SOLAR ENERGY PRODUCTION FACILITY** - Energy Generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

**SOLAR ENERGY SYSTEM** - Includes a combination of both solar panels and solar energy equipment.

**SOLAR PANEL** - A device capable of collecting and converting solar energy into electrical energy.

**SOLAR STORAGE BATTERY** - A device that stores energy from the sun and makes it available in an electrical form.

**SOLAR THERMAL SYSTEMS** - Solar Thermal Systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

### **C. Applicability**

1. The requirements of this Section shall apply to all Solar Energy Systems installed or modified after the effective date of the local law by which it was adopted, excluding general maintenance and repair.
2. All Solar Energy Systems shall be designed, erected, and installed or modified in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code and the Village Code as well as the National Electrical Code (NEC), National Fire Protection Code 70 (NFPA 70), and local regulations.

3. Under SEQRA regulations, actions are classified as Type I, Type II, or Unlisted Actions. Type II Actions are exempt from review and include actions such as the construction, expansion, or placement of minor or accessory structures. The Village of Sherman considers Building-integrated solar components and small-scale systems to be Type II Actions and therefore exempt from all SEQRA requirements, including the submission of an EAF (Environmental Assessment Form). Large-Scale Systems and solar production facilities that meet thresholds contained in the SEQRA regulations and are considered more likely than others to have a significant adverse impact shall be considered Type I Actions. However, the need for a complete Environmental Impact Statement (EIS) shall be determined by the permitting board on a case-by-case basis in accordance with the significance of the potential adverse environmental impact.
  4. All fees for applications made pursuant to this local law shall be established by resolution of the Village Board. Nothing herein shall be read to limit the ability of the Village to enter into host community agreements with any applicant to compensate the Village for expenses or Impacts on the community. The Village shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required under SEQRA if an EIS is required.
- D. Solar as an Accessory Use/Structure** - This Section governs the placement and installation of Small-Scale Solar systems as defined herein. The installation of Small-Scale Solar systems does require the applicant to obtain a building permit from the Village of Sherman.
1. **Roof-mounted Systems.** Roof-mounted Systems are permitted as an accessory use in all zoning districts when attached to a lawfully permitted principal structure and/or accessory structure, subject to the following requirements:
    - a. Height. Solar energy systems shall not exceed maximum height restrictions within any zoning district and are provided the same height exemptions granted to building-mounted mechanical devices and equipment.
    - b. Setback. Solar energy systems are subject to the setback requirements of the underlying zoning district.
    - c. Aesthetics. Solar energy equipment shall incorporate the following design requirements:
      - 1) Solar energy equipment shall be installed outside the primary residence or accessory structure and as close to a public utility electrical meter as possible.
      - 2) Roof-mounted Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
      - 3) Access and Pathways (NFPA Section 324.7) Roof access, pathways, and spacing requirements for solar photovoltaic systems shall be provided in accordance with NFPA Sections R324.7.1 through R324.7.6  
EXCEPTIONS:
        - (a) Roof access, pathways and spacing requirements need not be provided where an alternative ventilation method has been provided, or where vertical ventilation techniques will not be employed.
        - (b) Detached garages and accessory units.
      - 4) Size of solar photovoltaic array (324.7.1). Each photovoltaic array shall not exceed 150 feet in any direction. (45,720 mm).
      - 5) Roof Access Points (324.1.2). Roof access points shall be located:
        - (a) In areas that establish access pathways which are independent of each other and as remote from each other as practicable so as to provide escape routes from all points along the roof.

- (b) In areas that do not require the placement of ground ladders over openings such as windows or doors or areas that may cause congestion or create other hazards.
  - (c) At strong points of building construction, such as corners, pilasters, hips, and valleys and other areas capable of supporting the live load from emergency responders.
  - (d) Where the roof access point does not conflict with overhead obstructions such as tree limbs, wires, or signs.
  - (e) Where the roof access point does not conflict with ground obstructions such as decks, fences, or landscaping.
  - (f) In areas that minimize roof tripping hazards such as vents, skylights, satellite dishes, antennas, or conduit runs.
- 6) Ground access areas (324.7.3). Ground access areas shall be located directly beneath access roofs and roof access points. The minimum width of the ground access area shall be the full width of the access roof or roof access point, measured at the eave. The minimum depth shall allow for the safe placement of ground ladders for gaining entry to the access roof.
- 7) Single ridge roofs (324.7.4). Panels, modules, or arrays installed on roofs with a single ridge shall be located in a manner that provides two (2), 36 inches wide (914mm) access pathways extending from the roof access point to the ridge. Access pathways on opposing roof slopes shall not be located along the same plane as truss, rafter, or other such framing system that supports the pathway.
- EXCEPTIONS:
- (a) Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) and less.
  - (b) Structures where an access roof fronts a street, driveway, or other area readily accessible to emergency responders.
  - (c) One access pathway shall be required when a roof slope containing panels, modules or arrays is located not more than 24 inches (610 mm) vertically from an adjoining roof which contains an access roof.
- 8) Hip roofs (324.7.5). Panels, modules, and arrays installed on dwellings with hip roofs shall be located in a manner that provides a clear access pathway not less than 36 inches (914mm), extending from the roof access point to the ridge or peak, on each roof slope where panels, modules or arrays are located.
- EXCEPTIONS:
- (a) Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) or less.
  - (b) Structures where an access roof fronts a street, driveway, or other area readily accessible to emergency responders
- 9) Roofs with valleys (324.7.6), Panels and modules shall not be located less than 18 inches (457 mm) from a valley.
- EXCEPTIONS:
- (a) Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) or less.
- 10) Allowance for smoke ventilation operations (324.7.7). Panels and modules shall not be located less than 18 inches (457 mm) from a ridge or peak.
- EXCEPTIONS:
- (a) Where an alternative ventilation method has been provided or where vertical ventilation methods will not be employed between the uppermost portion of the solar photovoltaic system and the roof ridge or peak.

(b) Detached garages and accessory structures.

2. **Ground Mounted Systems.**

- a. All ground mounted solar panels shall be installed in the rear yard.
- b. All Ground mounted solar energy systems are permitted as an accessory structure in all zoning districts, subject to the requirements set forth in this section.
- c. Setback(s): Ground mounted solar panels are subject to setback requirements of the underlying zoning district.
- d. Height: Solar panels are restricted to a height of fifteen (15) feet when located with a minimum set back distance of ten (10) feet from a lot line; a height of twenty (20) feet when located with a minimum set back distance of fifteen (15) feet from a lot line; and maximum height of twenty-five (25) feet when located with a setback distance of twenty-five (25) feet or greater. All height measurements are to be calculated when the solar energy system is oriented at maximum tilt.
- e. Lot Coverage: The surface area of ground mounted solar panels shall be included in lot coverage and impervious surface calculations and shall not exceed thirty percent (30%) of the lot size.
- f. Other:
  - 1) Any application for installation and placement of small-scale solar energy system under this section in a side yard location shall require an application containing a site plan showing the location of all solar energy system components, their location on the premises, their location on the premises in relation to the property line and any and all structures on the premises, and the nearest structure located on the premises adjacent thereto.
  - 2) The site plan for such installation shall be reviewed by the Municipal Zoning Board of the Village of Sherman, and approval of the site plan for the placement in a side yard by affirmative vote of a majority of the Municipal Zoning Board of the Village of Sherman is required.

3. **Notification to the Fire Service.** Notification in writing to the Fire Department having operational authority at the location where the system will be installed shall be made no later than ten (10) days following installation:

- a. Notification shall include a site map showing the location of the solar energy electrical panel, as well as the proper operation of the disconnect switch(s) in the event of a fire or other emergency situation where the homeowner, tenant or other personnel is not available or familiar with the safe shut down operation of unit so as to have the ability to cut power from the solar panels.
- b. In addition, a proper written statement showing the method of shut down shall be posted inside the main electrical panel of the unit which can be readily accessible for and to firefighting personnel.
- c. Notification shall be sent to the following address:

Stanley Hose Fire Company  
122 Park Street  
Sherman, NY 14781

**E. Solar as Principal Use**

1. *Large-Scale Solar Systems* are permitted by the issuance of a Special Permit by the Village Municipal Zoning Board, subject to the requirements set forth in this section.
  - a. Every application for a large-scale system within the Village of Sherman shall be made to the Village Municipal Zoning Board and shall be approved by a majority vote thereof.
  - b. The Village Municipal Zoning Board shall hold a public hearing upon ten (10) days' notice duly posted and published in the official newspaper of the Village and on the Village bulletin board, before granting the Special Permit.



2. *Special Permit Application Requirements.* Every application for a Special Permit under this section shall contain the following information:
  - a. Verification of utility notification. Foreseeable infrastructure upgrade shall be documented and submitted. Off-grid systems are exempt from this requirement.
  - b. Name, address, and contact information of the applicant, property owner(s) and agent submitting the proposed project application.
  - c. If the property of the proposed project is to be leased, legal consent among all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements.
  - d. Blueprints showing the layout of the proposed system signed by a Professional Engineer or Registered Architect.
  - e. Equipment specification sheets for all photovoltaic panels, significant components, mounting systems and invertors that are to be installed.
  - f. A property operation and maintenance plan describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, etc.
  - g. Decommissioning Plan:
    - 1) To ensure the proper removal of large-scale systems, the decommissioning plan shall include details regarding the removal of all infrastructures, including the removal of concrete to a depth of four feet, and the remediation of soil and vegetation back to its original state prior to construction, unless otherwise permitted. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a Professional Engineer or contractor. Cost estimates shall take inflation into account. *In the case of a lease, the cost of decommissioning shall be borne by the entity or corporation that is leasing the property in question and not the landowner.*
    - 2) A form of surety, through escrow, bond, or the equivalency of, shall be established prior to the commencement of construction to cover the cost of decommissioning the site. The amount of surety required may not exceed 125 percent of the estimated cost to decommission.
3. *Special Permit Standards.*
  - a. Setbacks(s): All large-scale solar energy systems shall be set back a minimum of 100 feet from any property line and a minimum of 300 feet from any residential building, school, place of public worship or designated historic district or landmark. If the applicant controls multiple, contiguous parcels, only the exterior boundary of the aggregated parcels shall be considered the "property line" for purposes of determining setbacks.
  - b. All large-scale solar energy systems shall be enclosed by fencing to prevent unauthorized access. Warning signs shall be placed on the entrance and perimeter of the fencing. The height and type of fencing shall be determined by the Special Permit process.
  - c. On-site electrical interconnection lines and distribution lines shall be placed underground, unless otherwise required by the utility.
  - d. The removal of existing vegetation shall be limited to the extent necessary for the construction and maintenance of the solar installation.
4. *Solar Storage Batteries.*
  - a. If solar storage batteries are included as part of the Solar Energy Collection system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code. All solar storage batteries, their maintenance, placement, and location shall also comply with all applicable rules and regulations as promulgated by New York State Building Code and the National Electric Code.

- b. When batteries are no longer in use, they shall be disposed of in accordance with the laws of the State of New York and any applicable Federal or Local disposal rules or regulations.

**F. ENFORCEMENT:**

1. Any violations of any provisions of this Section shall be punishable by penalty of \$50.00 per day or a term of imprisonment up to 15 days.
2. Notwithstanding the above, the Village Board of the Village of Sherman hereby reserves the right to proceed to enforce the provisions of this Section by civil action, injunction, and any other remedy afforded to it by the laws of the State of New York or the United States.

**SECTION 620 GRAVEL OPERATIONS**

**A. Purpose** - Gravel pits not regulated by the NYSDEC shall be regulated by this section, the purpose being to limit the nuisances associated with gravel pits and insure that adjacent residential neighborhoods are protected. See the definition of gravel pit, small.

**B. Conditions** - in districts where small gravel pits are allowed, the following conditions shall be considered:

1. *Setbacks* - Excavation, blasting, stockpiling of materials shall not be allowed within 500 feet of any public road or property line.
2. *Fencing* - Fences may be required for public safety as determined by the Permitting Board. Consideration will be given to the topography, type of operation, and equipment being used, size of the lot, population density, and any other reasonable characteristic.
3. *Restoration* - All gravel pits shall be restored to a safe and an aesthetically pleasing state within 2 months after termination of the operation. Termination shall be considered to have taken place when no gravel and sand has been extracted for a 1-year period and there is no intention of reactivation of the site. A Special Use Permit shall be required to keep a site in an active status after the reasonable amount of activity has taken place for 5 years.
4. *Preexisting Operations* - Gravel pits in existence before the enactment of this Law shall be subject to *B2-Fencing* and *B3-Restoration* above. In addition, any expansion or enlargement (purchase of additional property or use of property beyond scope of permit) of such gravel and sand operations shall be subject to all regulations in this Law as determined by the Permitting Board and subject to applicable state regulations.

**SECTION 621 GAS COMPRESSORS**

**A. Purpose** - Gas transmission compressors are capable of producing unacceptable environmental intrusion, especially where residential uses are prevalent. In order to avoid unreasonable use of property resulting in substantially reduced use-value of adjacent inhabited or non-inhabited properties, this section shall regulate the location and installation of all gas compressors not under the jurisdiction of the NYS Public Service Commission. Generally, the Section is intended to preserve and protect the general welfare, health, and safety of the public while still promoting the transmission of natural gas in a reasonable environmentally acceptable manner.

**B. Administration**

1. *Permit Requirements* - in districts where gas compressors are permitted, a Special Use Permit shall be required for the placement of a new gas compressor.
2. *Preexisting Gas Compressors* - All gas compressors existing or being constructed at the time of enactment of this zoning law shall be subject to the following conditions as listed below: *C2c-Maintenance*, *C2d-Barriers*, and *C3-Identification Signs*. These conditions shall be considered at a public hearing held a minimum of 30 days after the owner of the compressor station is notified in writing. All owners of parcels as well as renters within 2,000 feet of the proposed/existing gas compressor shall be notified in writing of the public hearing. Compliance shall take place within 2 months of receipt of a

written decision by the Permitting Board. A longer compliance period may be granted by the Permitting Board if the cost of the alterations is significantly high.

- C. Conditions** - All gas compressors shall be located and designed such that the nuisances associated with the use shall be minimized. It shall be unlawful for any person or firm to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures, or endangers comfort, repose, health, peace or safety to others. The following specific conditions shall be met:
1. *Location* - The site shall be appropriately located with consideration given to predominant wind direction, topography, location of dwelling units, and any other reasonable conditions as deemed necessary by the Permitting Board.
  2. *Noise Levels*
    - a. *Easement* - All new gas compressors covered by this Section must be located such that lands subject to a 40 decibels or higher noise level produced by a new compressor shall be covered by a noise easement clearly delineating the maximum noise level allowed at any inhabited dwelling unit or proposed site of a dwelling unit. Preexisting leases shall not negate the requirement for a noise easement as described above.
    - b. *Certification of Noise Level* - Prior to being granted a permit for the placement of a gas compressor, the owner of the proposed compressor shall be responsible for verifying the compressor and quieting devices (silencer, low speed fan, barriers such as walls or berms, etc.) as proposed will meet the specified decibel level requirements. A certified noise consultant must certify in writing that the requirements will be met. Additionally, after placement of the compressor is completed along with the specified quieting devices the same certified noise consultant must verify that the 40 decibels requirements are not exceeded. This certification must be accomplished within 30 days or the compressor shall be only operational during daylight hours until it is brought into compliance.
    - c. *Maintenance* - The compressor and quieting devices must be properly operated and maintained such that the noise level will not rise above the specified permissible levels. If it becomes apparent to the Permitting Board that the noise levels are not in compliance, the Board may require the owner of the compressor to do corrective maintenance and again, at the owner's expense, have the compressor noise level verified by a certified noise consultant. This certification must be accomplished within 30 days or the compressor shall be only operational during daylight hours until it is brought into compliance.
    - d. *Barriers* - Where it is deemed necessary, either a natural or man-made acoustical barrier may be required for the purpose of minimizing the nuisances associated with a gas compressor. In extreme cases, where no alternative is available, a fully enclosed acoustically designed structure may be required.
  3. *Identification Sign* - Each gas compressor shall be identified with a conspicuously placed sign identifying the compressor, its location and the name of the personal company responsible for the unit in case of emergency. Additionally, a 24-hour emergency telephone number should be included.
- D. Other** - any other reasonable conditions as deemed necessary by the Permitting Board.
- E. State Environmental Quality Review Law** - All permit requests for gas compressors shall be subject to an environmental review, in accordance with state law. No zoning permit shall be granted until this environmental review has been accomplished by the municipality and applicant.

## **SECTION 622 JUNK VEHICLES**

- A. Purpose** - It is the intent of this section to minimize safety, health and aesthetic related problems by limiting, according to district and lot size, the storage outdoors of junk vehicles.

- B. Number of Vehicles** - the maximum number of junk vehicles that may be stored outdoors shall be as follows:  
1 vehicle in R2 District and none in all other districts.
- C. Location of Vehicles** - Junk vehicles shall be stored out-of-sight as viewed from adjacent properties and roadways to the greatest degree possible.
- D. Restoration of Vehicle Outdoors** - Sustained progress in restoring or repairing a vehicle to operational condition shall be allowed under the following conditions and said vehicle shall not constitute a junk vehicle:
  1. A maximum of 1 vehicle per 2 acres of land shall be allowed for restoration with a maximum of 3 allowed.
  2. The entire restoration shall take a reasonable time to accomplish.
  3. Such vehicles shall be located so as to create the least nuisance possible.
  4. Noise associated with the restoration shall be limited to reasonable hours.
  5. Restoration shall be for personal use and not for profit.
- E. Preexisting Junk Vehicles** - Where more than the maximum number of junk vehicles are present at the time of enactment of this Law, a maximum of 6 months from date of written notification shall be allowed for the owner to come into compliance with this section.

**SECTION 623 TRASH STORAGE**

- A. Purpose** - The Village Board of the Village of Sherman has seen an incidence in the increase of derelict and offensive property conditions resulting from the physical deterioration of the structures located there upon or through the intentional or unintentional storage or collection of garbage, rubbish or trash materials in open areas of the premises or located in inadequate storage facilities thereupon. The presence of these materials often leads to unsafe and unhealthy conditions affecting not only the property in question but also larger areas of the community including but not limited to the presence of foul and obnoxious odors, leeching of various contaminated waters or other liquid substances, the creation of conditions leading to the presence of vermin and a general diminution of the visual aesthetics of the property and the neighborhood and community at large resulting in a variety of public health hazards as well as the reduction in property values of the subject property and others in its vicinity. Such conditions affecting real property as specified above shall, for the purposes of this law, be declared to be illegal. In order to deal with said conditions, the Village Board proposes the following Local Law.
- B. Definitions** - Certain words and terms used in this Local Law are defined as follows:

COMPOST - Relatively stable decomposed organic material.

COMPOSTING - A controlled process of degrading organic matter through the use of micro-organisms for private gardening and non-commercial activities.

GARBAGE - The waste of animal, fish, fowl, or vegetable matter produced from or resulting from the use and storage of food for human consumption.

RUBBISH - Combustible and noncombustible waste materials except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials; paper, rags, cartons, boxes, scrap wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and other similar materials.

TRASH - Glass, scrap wood, scrap metals, fires, rags, refuse, garbage, waste paper, toilets, urinals, unsalvageable machines such as abandoned farm machinery, rototillers, riding lawnmowers, walk behind lawnmowers, snowmobiles, all-terrain vehicles; appliances such as washing machines, clothes dryers, refrigerators, freezers, cooking stoves, heating stoves, televisions, computer components, stereo components, air conditioners and similar electrical devices or similar materials.

### C. Regulations

1. No accumulation, collection, storage or sale of glass, scrap wood, scrap metals, salvaged metals, tires, rags, refuse, garbage, rubbish, trash, waste paper, salvaged machines, appliances, old lumber (excluding firewood), metal, pipes, plumbing fixtures, broken concrete or stone, or other similar materials. The refrigerant must be removed from refrigerators, freezers, air conditioners or other similar appliances by a certified repair person. See definitions for rubbish, trash and garbage.
2. Pre-existing uses present at the time of enactment of this Local Law shall be provided a period of thirty (30) days for compliance after notification by the Code Enforcement Officer.
3. The provisions of this Local Law shall be applicable throughout the Village.
4. *INITIAL IDENTIFICATION* - When a potentially unsafe condition relating to the storage of garbage, rubbish or trash is brought to the attention of the Zoning/Code Officer he shall within a five day period externally inspect the premises and report back to the municipal board. The Code Officer shall also advise the County Health Department or other office having jurisdictional interest in the matter of the conditions or other matters of jurisdictional interest to said agency or to the County Health Department.
5. *NOTIFICATION OF OWNER OR OTHER INTERESTED PARTY* -
  - a. The municipal board may direct the Code Officer or advise the Code Officer if remedial actions beyond those provided for in the Uniform Fire and Building Code are necessary and further order that a notice be served upon the person or persons who own, occupy or have an interest in the property as specified in 3 below. Said notice shall be in the manner provided herein.
  - b. The notice shall contain the following:
    - i. A description of premises
    - ii. Statement of particulars in which the premises are unsafe or in violation of the provisions herein.
    - iii. An order outlining the manner in which the premises are to be made safe and secure and any offending materials that are to be removed and/or stored in appropriate facilities.
    - iv. A statement that corrective actions set forth in C above shall commence within ten (10) days of the service of the notice and shall be completed within thirty (30) days thereafter unless a good cause can be shown, when such time may be extended.
    - v. A date, time and place for a hearing before the municipal board in relation to such violations, which hearing shall be scheduled not less than five (5) business days from the date of the service of notice.
    - vi. A statement that in the event of neglect or refusal to comply with the order to correct or remediate such violations as specified in said notice the municipal board is authorized to provide for a removal or remediation or other correction as may be required pursuant to the notice of violations and thereafter to assess all expenses thereof against the land upon which such violations are located or upon which such conditions exist and institute any special proceedings to collect the costs of corrections or remediation including legal expenses as may be necessary,
  - c. The said notice shall be served on the owner or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in same, either personally or by registered mail, addressed to the last known address, if any, of the owner or someone of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in same, as shown by the records of the tax collector and/or in the office of the County Clerk; and such service may be made by registered mail and by securely affixing a copy of such notice upon any building or structure located upon the property.
6. *NONCOMPLIANCE* - In the event of the refusal or neglect of the person so notified to comply with said order and after the hearing, the Municipal Board shall provide for the cleanup and/or remediation of the conditions complained of on said premises either by municipal employees or by contract. Except in

emergency any contract for clean up or remediation of such offending premises in excess of the limits provided by the General Municipal Law shall be awarded through competitive bidding. All expenses incurred by the Municipality in connection with the proceedings to clean up, remove or remediate conditions on premises specified of any nature including legal costs shall be assessed against the land upon which the violations occurred and shall be levied and collected in the same manner as provided for the levy and collection of Municipal taxes.

7. *EMERGENCY CASES* - Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property, unless premises identified as being in violation are immediately cleaned up or remedied in the fashion specified herein the municipal board may by resolution immediately cause such efforts that are necessary to remediate the conditions complained of herein. The expenses of such correction or elimination of said violation shall be a charge against the land upon which it is located and shall be assessed, levied, and collected as provided above under Noncompliance.
8. *FARM OPERATIONS AND PRACTICES* - It is not the intention of this Local Law to unreasonably restrict or regulate normal farm operations or practices involving materials or the storage of materials as are set out in other provisions of this Local Law. Instances where such farm operations or activities occur on properties qualified and characterized as farm operations, agricultural activities or other similarly related land use activities as defined in New York State Agriculture and Market Law Section 301 shall be exempt from the provisions of this Local Law.
9. *COMPOST REGULATIONS* - Regulations provided above shall not include maintenance of private compost or the processing of composting for private gardening and/or non-commercial activity. Subject to the requirement that such material or activities not constitute an identifiable public nuisance to the production of noxious odors or waste run-off from a property upon which it is located.

#### **SECTION 624 SCRAP & JUNK YARDS**

**A. Conditions** - Prior to the granting of a Special Use Permit, assurances will be received that the following conditions, will be met:

1. *Fences* -
  - a. Yards shall be completely, surrounded with a fence for screening and security purposes of at least 8 feet in height. However, where the Permitting Board determines that the character of the neighborhood does not require aesthetic screening or security fencing, this 8' fence requirement can be waived to any degree for the side and rear yards.
  - b. There shall be located a gate in the fence which shall be kept locked at all times except when the vehicle dismantling or scrap yard is in operation.
  - c. The fence shall be located a minimum of 50 feet from adjacent public highways.
  - d. All storage, dismantling, and work on the vehicles or scrap shall take place within the fenced area.
  - e. The type of materials used shall be generally accepted by the industry and commonly used as fencing material. Fences shall be permanent and substantial.
  - f. Fences shall obscure or screen, adequately, the contents of the yard.
  - g. Fences shall be well maintained and aesthetically pleasing.
2. *Location Considerations* -
  - a. Yards shall only be allowed in districts where this use is listed as allowable.
  - b. Yards shall be allowed where there will be minimum negative effect on the character of existing neighborhoods.
  - c. No yard shall be permitted within 500 feet of a church, school, public building, or other place of public assembly.
  - d. Yards shall not be permitted to be located upon areas where an 8 foot fence will not reasonably screen the contents from adjacent highways or properties.

3. *Off-street Parking* -  
Sufficient off-street parking shall be provided for customers.
4. *Fire Safety* -
  - a. The fire department shall be notified prior to the granting of a Special Use Permit for a yard and be given 30 days within which to make recommendations.
  - b. Inside, adjacent to the fence, a strip of at least 10 feet wide shall be kept clear of all dry grass or other growth or combustible material so as to provide a fire lane around the whole area.
  - c. There shall be maintained at least 1 fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and visible.
  - d. All vehicles and scrap and junk shall be disassembled by means other than burning. It shall be arranged in neat rows so as to permit easy, clear passage through the area.
5. *Visual Considerations* -
  - a. There shall be no stacking of vehicles, scrap or junk above 8 feet in height from the ground. However, vehicles and scrap which have been crushed may be loaded on to the bed of a truck where they will be removed from the premises within a reasonable time period.
  - b. An appropriate buffer shall be established between adjacent properties.
6. *Minimum Lot Size* -
  - a. Adequate acreage shall be available to handle present and future needs of proposed yards.
7. *Other Considerations* -
  - a. Suitable sanitary facilities shall be provided in accordance with State Health Laws.
  - b. Inspection of yards shall be allowed at any reasonable time to insure compliance with this and other laws.
  - c. Reasonable hours of operation may be specified.
  - d. Other reasonable conditions may be imposed as is deemed necessary.

#### **SECTION 625 HEAVY VEHICLES**

- A. Purpose** - This Section has as its main purpose the preservation of densely developed neighborhoods and particularly the elimination of noise from diesel engines and air conditioning units caused by large commercial truck parking. Visual intrusion into residential neighborhoods is also a primary concern.
- B. Regulations** - Heavy vehicles shall comply with the following regulations:
  1. *Location* - Heavy vehicles shall be allowed to park in any district, where permitted, under the following conditions:
    - a. The vehicle is not parked on a road or in a public road right-of-way.
    - b. The vehicle is located a minimum of 150 feet to the closest dwelling unit on adjacent parcels.
  2. *Location Waivers* - in an emergency (e.g., truck breakdown) or for normal deliveries, the location requirements in B1, above, shall be waived for a maximum of 48 hours.
- C. Preexisting Heavy Vehicles** - This Section shall apply to all heavy vehicles immediately, including those that have, in the past parked in such a manner so as not to be in compliance with this section.

#### **SECTION 626 LARGE GROUP GATHERINGS**

- A. Purpose** - In order to promote safe and healthy gatherings of large groups of people, as defined in the definition Section, certain conditions shall be complied with as defined below.
- B. Conditions** - Prior to the granting of a Special Use Permit, the following will be taken into consideration:
  1. Traffic safety, parking, access;
  2. Noise;
  3. Health and sanitation;
  4. Character of neighborhood development density;

5. Beverages to be served;
6. Security and traffic control;
7. Cleanup and restoration of land; and
8. Other appropriate considerations.

- C. Sponsor Responsibility** - The sponsor of any large group gathering shall be responsible for compliance with any conditions which are specifically imposed as well as the overall conduct of the gathering.
- D. Exempt Gatherings** - Nonprofit and local civic group sponsored gatherings and all gatherings taking place which are authorized by the Municipal Board shall be exempt from permit requirements.
- E. Preexisting Uses** - All gatherings held after the effective date of this Law shall be subject to this Section.

**SECTION 627 FARM ANIMALS**

- A. Purpose** - This Section has as its main purpose the protection of residential neighborhoods in the Village of Sherman and the recognition that with the protection of neighborhoods is also recognition that historically the Village of Sherman has had a continuous history of farm and farm business related activities which have been central to the community's prosperity and which are anticipated to continue to be a central part of the economic base of the community. As a result, farm animals are allowed throughout the Village's zoning districts.
- B. Additional Definition** used in this Local Law is defined as follows:

FARM ANIMALS - Farm animals for the purposes of this Local Law shall include horses, cattle, goats, sheep, and/or fur bearing animals or others which are generally raised or husbanded as part of farm operations.

- C. Farm Animals** may be maintained without permit within the Village Zoning Districts under the following conditions:
  - a. Fences - Farm animals shall be fenced so as to be contained on the home resident's lot or lots within the Village and so as to prevent them from wandering on to adjacent properties.
  - b. Run Off - Provisions must be made to ensure that pastures and in particular manure storage areas do not runoff onto adjacent parcels. Particular concern must be shown for protecting water wells and streams.
  - c. A manure pile shall not be maintained in such a fashion as to cause any nuisance to any adjoining neighboring properties.

**SECTION 628 MOBILE HOME STANDARDS**

- A. Conditions** - In districts where mobile homes are allowed by Special Use Permit, all of the conditions listed below shall be considered prior to the granting of the zoning permit.
  1. *Minimum Floor Space* - The original "advertised" floor space for a mobile home, excluding add-on shall be a minimum of 1,000 square feet.
  2. *Parking* - Off-street parking spaces in accordance with the supplemental Section 614 on parking.
  3. *Skirting-Attractive*, fire-resistant skirting shall be installed within 6 months of when the mobile home is placed on the lot.
  4. *Location* - Mobile homes shall only be allowed when they will not have a substantial negative effect on the existing character of a neighborhood.
  5. *Landscaping* - Landscaping appropriate to the neighborhood shall be considered.
  6. *Additions* - All additions shall be in accordance with the New York State Uniform Code and shall be compatible with the construction of the mobile home.
  7. *Storage* - Miscellaneous garage and recreational items traditionally stored undercover shall not be stored outdoors. Appropriate storage shall be supplied.



8. *HUD Requirements* - All mobile homes (new and used) shall comply with HUD construction requirements except as superseded herein prior to being allowed to be placed on a lot.
9. *Other Considerations* - any other reasonable conditions as deemed necessary by the permitting board shall be considered for inclusion. See supplemental Section 601 on general development conditions for a list of possible conditions to include.

**B. Preexisting Uses** - Preexisting mobile homes shall comply with conditions *A3-Skirting* and *A2-Parking*, where it is reasonable. These conditions shall be met within one year from the date of written notification.

## **SECTION 629 MOBILE HOME PARKS**

**A. Conditions** - Mobile home parks shall comply with the following standards:

1. *Area and Setback Requirements* -
  - a. *Size* - Parks shall consist of a minimal of 5 acres and shall be designed for a maximum of 5 units per acre overall.
  - b. *Buffer* - an appropriate vegetation or open space buffer shall be located around the perimeter of the park. Type and size of the buffer shall be determined by the density and type of adjacent uses and the need for separating the uses. As a minimum, a 25-foot - buffer (open space or vegetation) shall be required with the Permitting Board determining the need for a greater buffer.
  - c. *Setback* - All mobile homes and other development shall be located a minimum of 100 feet from the edge of any public road. Mobile homes shall be setback a minimum of 20 feet from the edge of the park's private road.
  - d. *Lot* - Each mobile home shall be located on a lot which is a minimum of 5,000 square feet, and a minimum of 50 feet in width. The width required can be waived for corner lots.
  - e. *Side Yard* - Mobile homes including enclosed additions, shall be spaced a minimum of 25 feet from each other.
  - f. *Floor Space* - The minimum floor space allowed for a mobile home placed in a park shall be in accordance with area requirements for the district in which the park is located. Add-ons shall not be used in calculating the size.
2. *Streets and Walkways* -
  - a. Entrance and exits to the park shall be safety designed.
  - b. Private roads shall be a minimum of 16 feet wide and shall, as a minimum, be carpet coated, graveled, or paved, and be approved by the fire chief for use by emergency vehicles.
  - c. Private roadways shall be maintained in such a manner so as to permit safe travel year-round (e.g., free of snow and ruts.)
  - d. Walkways from the street to door shall be required in addition to a patio for each mobile home.
3. *Parking* -
  - a. Off-street periling shall be provided with a minimum of 400 square feet for each mobile home with gravel, carpet coating, or paving being used.
  - b. Sufficient auxiliary parking shall be provided for trucks, boats, travel trailers, etc.
4. *Recreation* - Open space and recreational areas shall be set aside and improved at central locations at a rate of 700 square feet per mobile home. They shall be maintained in a manner conducive to recreational use.
5. *Skirting* - Mobile homes shall be skirted with an attractive fire-resistant material within 3 months from the time of setup.
6. *Outdoor Storage* - Due to the limited lot sizes and close proximity of mobile homes no outdoor storage of tools, materials, equipment, junk, or any other items, other than registered vehicles, or patio-related items shall be allowed. Where storage sheds are necessary to comply with this requirement, they shall be located in rear yards and out of sight to the greatest degree possible, substantially anchored, and well-maintained.

7. *Accessory Retail or Service Uses* - Laundromats and mobile home sales/service, customarily associated with mobile home parks shall be permitted. However, the land utilized in this manner should not account for more than 5% of the total area of the park. Finally, no commercial character shall be visible from outside the park and such services shall only be allowed when the number of sites is sufficient to support these services.

**B. Bond** - At the discretion of the Permitting Board, the developer may be required to obtain an appropriate bond to insure compliance with conditions attached to the Special Use Permit/Site Plan Review.

**C. Preexisting Parks** - Mobile home parks in existence before the enactment of this Law shall be subject to the following regulations:

1. Mobile homes shall be skirted with an attractive fire-resistant material within 1 year.
2. Enlargements or expansions of all mobile home parks in existence before the enactment of this Law shall comply with all the regulations in this Law to the extent determined by the Permitting Board.
3. Off-street parking shall be provided within 1 year, where applicable.
4. Other reasonable conditions for mobile home parks in existence before the enactment of this Law as deemed necessary.

### **SECTION 630 TEMPORARY DWELLING UNITS (TRANSPORTABLE)**

**A. Purpose** - The primary purpose of this section is to limit the use of travel trailers and other temporary dwelling units to uses for which they are intended, namely, seasonal/recreational use. Ultimately, the protection of neighborhoods is promoted with respect to health, safety and general quality. Commercial travel trailer parks are not subject to regulation under this section.

**B. Inhabitation Time** - Travel trailers may be inhabited by non-renters on a temporary basis in accordance with the following chart. No permit or fee is required unless the number of inhabitation days desired is greater than that specified, in which case a Special Use Permit must be requested.

Districts R1, C, R2

Maximum Number of Days Inhabited per Time Period

14 days per 3 months

**C. Conditions** -

1. *Storage* - A travel trailer in good condition may be stored (uninhabited) on any lot.
2. *Setbacks* - Area requirements (e.g., side yard requirements) shall be met.
3. *Utilities* - Permanent utility systems, used exclusively for temporary dwellings in residential or commercial districts, shall not be constructed.
4. *Nuisances* - Accessory dwellings may not be utilized in such a manner so as to cause a nuisance.
5. *Field Offices* - Contractors may use temporary dwellings for "field offices" after obtaining a permit. Additionally, temporary dwelling units may be utilized by owner/builders during the construction of a structure.

### **SECTION 631 TEMPORARY MOBILE HOMES**

**A. In Conjunction with Construction (Inhabited)** -

1. *Administration* - A temporary Special Use Permit may be applied for in conjunction with the construction of a dwelling unit within districts which allow mobile homes.
2. *Conditions* - the following conditions may be attached to the permit:
  - a. A time schedule for commencement and completion of the dwelling unit. As a minimum, construction on the dwelling unit shall begin within 1 year from the date when the mobile home is placed temporarily on the lot. Additionally, the mobile home shall be removed within 3 years from the date it was first placed on the lot, at which the dwelling unit shall be livable.

- b. The placement of the mobile home on the lot shall be in accordance with Area standards unless the Permitting Board determines that such conforming placement would not be practical, in which case the conditions will be specified.
- c. Due to the temporary nature of the permit, the mobile home need not be skirted.

**B. Not Inhabited -**

- 1. *Administration* - A mobile home may be stored uninhabited within a district which allows mobile homes only after a temporary Special Use Permit has been granted.
- 2. *Conditions* - to be considered include: time limitations and placement location.

**SECTION 632 FUEL TANKS**

- A. Purpose** - the purpose of this Section is to promote the safety of residents in residential districts from fire and explosion resulting from gasoline/volatile liquid tanks. As a secondary purpose, the maintenance of aesthetic values in residential neighborhoods is also promoted.
- B. Conditions** - in districts where fuel tanks (gasoline and volatile liquids) are allowed "By Right" (permit required) the following conditions shall be followed:
  - Lot Size - a minimum lot of one acre shall be required.
  - Uniform Code - All requirements of the Uniform Code shall be met.
  - Setbacks - District setback requirements shall be met.

**SECTION 633 AIRCRAFT LANDING STRIP**

- A. Purpose** - In order to protect residents from the creation of unsafe conditions or nuisances, the following conditions shall be considered prior to the granting of any permit for an aircraft landing strip.
- B. Conditions** -
  - 1. *Location* - Potential airstrips should be located such that they are a minimum of 300 feet from any dwelling and also not more than 10 dwellings are within 500 feet of any portion of the actual runway.
  - 2. *Posted Signs* - Airstrips shall be posted with signs of sufficient quantity to alert any person entering the area that a craft may be present.
  - 3. No dwellings shall be-in the immediate clear area of the ends of the airstrip.
  - 4. All commercial development proposed to be located on the airstrip property must be allowed in that district.
  - 5. *Referral to State* - Prior to acting on any aircraft landing strip permit request, the Municipal Board shall, by resolution, request the NYSDOT Commissioner to review the proposed airstrip and make a recommendation in accordance with Section 249 of General Business Law.
- C. Permit Requirements** - All requests for permits shall include a description of the type and quantity of aircraft using the facilities, frequency of flights, a map drawn to scale showing the airstrip and prevailing winds as well as dwellings in the neighborhood and proposed commercial development.

**SECTION 634 TOPSOIL/EXCAVATION**

During the construction of a foundation, general landscaping, or any other extensive excavating project, a person, firm, corporation, etc., shall not strip, excavate, or otherwise remove soil/gravel unless the following conditions are met:

- A. Topsoil** - Topsoil is replenished or support future development needs.
- B. Groundwater Runoff** - Runoff will not be caused to flow into neighboring properties, to pool, or cause erosion.
- C. Time Requirement** - All of the above conditions shall be met within 1 year from the time the project started. However, the Municipal Board shall have the power to grant extensions or shorten the time frame for just cause after receiving a written request which includes the reasons for the request.

## **SECTION 635 RECREATIONAL VEHICLE/TRAILER STORAGE**

- A. Location** - All recreational vehicles/trailers, etc., shall be stored in rear yards whenever it is possible and shall not be stored in a front yard. Nor shall they be allowed to become a nuisance. All area requirements of the district in which the vehicle is stored shall be met. Area Variances shall be requested where these rules cannot be met.
- B. Preexisting Vehicles** - All recreational vehicles covered by this section shall be subject to the regulations of this Section 3 months from the date of notification in writing by the Village.

## **SECTION 636 UNSAFE STRUCTURES**

[Supersedes and Replaces the original Section 636, Adopted 2022-12-14 by LL #4 of 2022]

- A. Unsafe** - buildings, structures, and equipment, and conditions of imminent danger in this Village shall be identified and addressed in accordance with the procedures established by Local Law No.3 of 2022, as now in effect or as hereafter amended from time to time.

## **SECTION 637 SIGNS**

### **A. Administration -**

1. *Permits Required* - except as listed in the following paragraphs {A2 and A3}, a Zoning Permit shall be required before an outdoor sign is created, altered, or enlarged. Permit shall not be issued until all applicable sign regulations are met. All requests for permits must be accompanied by a plan drawn to scale showing the exact size, shape, location, and type of sign.
2. *Exempt Signs* - the following signs shall be exempt from all regulations of this Section: public signs such as directional, street, and traffic.
3. *Signs Requiring No Permit* - the following signs shall be subject to all regulations of this section but shall be exempt from obtaining a permit as required above:
  - a. Temporary Signs to include contractor signs. Realtor signs, political signs, household sale signs, and roadside stand signs.
  - b. Indoor signs.

### **B. Specific Regulations by Sign Type -**

1. *Signs Attached to Buildings*
  - a. No sign shall project higher than the roof line by more than 5% of the length of the storefront.
  - b. Primary signs shall not be painted on buildings.
2. *Free Standing Signs* - Free standing signs shall be allowed in accordance with the following:
  - a. *Height* - A maximum height of 30 feet from the ground to the top of the sign shall be allowed.
  - b. *Setback* - A setback minimum of 15 feet from the road edge shall be required.
3. *Temporary Sign Regulations* - the following specific regulations shall apply to temporary signs:
  - a. *Contractor signs* shall be allowed during periods from when the job commences and is completed. The sign must be removed if substantial progress on the job is not taking place. The maximum size shall be 10 square feet.
  - b. *Political signs* up to 32 square feet in size shall be allowed 6 weeks before and 1 week after the election and it shall be the responsibility of the candidate to comply with this regulation. Permission from the property owner must be received prior to sign placement.
  - c. *Household Sale signs* shall be permitted in accordance with the following regulations:
    - i. *Maximum Size* - no more than 3 feet high by 3 feet wide.
    - ii. *Maximum Number* - no more than 3 signs shall be used and permission must be received from property owners where off-premise signs are located.
    - iii. *Location* - Signs shall not be placed on trees, utility poles, street signs, or traffic signs.
    - iv. *Illumination* - Signs shall not be illuminated.

v. *Time* - Household signs may be erected on the day the sale starts and must be removed on the last day of the sale.

4. *Seasonal On-Premise Roadside Stand Signs* shall be allowed in accordance with the following conditions:
- a. *Maximum Size* - no more than 3 feet high by 3 feet wide.
  - b. *Maximum Number* - No more than 1 sign shall be used per property with more signs requiring a permit.
  - c. *Location* - Signs shall not be placed on trees, utility poles, street signs or traffic signs.
  - d. *Illumination* - Signs shall not be illuminated.
  - e. *Time* - Roadside stand signs shall only be permitted during the season in which the agricultural product being sold is available and locally grown.
5. *Billboards* - New billboards shall not be allowed.

**C. Maximum Number Primary Signs**

District R1, R2, C,  
Maximum signs 2

Note: More than the maximum number of signs shall be allowed by Special Use Permit with conditions attached if it can be accomplished in good character with the neighborhood and does not exceed size requirements.

**D. General Regulations -**

1. *Condition* -
- a. Every permitted sign must be constructed of durable materials and kept in good condition and repair.
  - b. Any sign which is allowed to become dilapidated may be removed by the municipality at the expense of the owner or lessee of the property on which it is located after appropriate notice and hearing.
2. *Location* -
- a. *Traffic* -
    - i. No sign shall be so located that the sign might interfere with traffic, be confused with or obstruct the view or effectiveness of any official traffic sign, signal or marking. No sign shall be located that interferes with a vehicle driver's sight distance at a street corner, road intersection or along a roadway.
    - ii. No sign shall be stapled, pasted or otherwise attached to utility poles or trees within a road or street right-of-way.
  - b. *Ingress, Egress* -
    - i. No sign shall be located which shall prevent free ingress or egress from any window, door or fire escape.
    - ii. No sign shall be so placed that it will obscure light and/or air movement from a building.
  - c. *Located near Residential District* - All signs within 100 feet of a Residential District shall be by Special Use Permit.
3. *Illumination* -
- a. Illuminating arrangements for signs shall be such that the light is concentrated on the sign with a minimal lighting spill over cast on the street, sidewalk or adjacent properties.
  - b. Signs which contain, include or are illuminated by any flashing, intermittent or moving lights are prohibited.

**E. Cessation -**

- 1. If a use ceases for a period of 1 year, all detached signs must be removed.
- 2. Such signs may be removed by the municipality after appropriate notice and hearing at the expense of the owner or lessee of the property on which the sign is located if the sign has not been removed after 30 days notice.

**F. NYS Regulations** - New York State Highway regulations related to outdoor advertising shall also apply where applicable.

**SECTION 638 ADULT BUSINESS**

**A. Findings and Legislative Intent** - An Adult Business Secondary Impact Study was initiated by the Village of Sherman to investigate the need for, and if required, recommend land use controls to regulate the establishment of adult businesses in the Village of Sherman. The Study and its results are hereby incorporated in this regulation.

In the development and execution of this Local Law, it is recognized that Adult Businesses, because of their very nature, have serious objectionable, operational characteristics when concentrated under certain circumstances, and can have a deleterious effect on adjacent areas. It is the purpose of this Law to regulate the creation, opening, commencement and/or operation of Adult Businesses, as herein defined, in order to achieve the following:

1. To preserve the character and the quality of life in the Village of Sherman's neighborhoods and business areas.
2. To control such documented harmful and adverse secondary effects of adult uses on the surrounding areas such as: decreased property values; attraction of transients; parking and traffic problems; increased crime; loss of business for surrounding non-adult businesses; and deterioration of neighborhoods.
3. To restrict minors' access to adult uses.
4. To maintain the general welfare and safety for the Village of Sherman's residents.

**B. Definitions** - Adult businesses shall be defined as and include the following:

**ADULT ARCADE** - Any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically, electrically or mechanically-controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

**ADULT BOOKSTORE** - A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproduction, digital video discs (DVD's), slides, or other visual representations which depict or describe specified sexual activities, specified anatomical areas: or
- b. Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be defined as an adult bookstore so long as one of its principal business purposes is the offering for sale or rental for consideration of the specified materials which depict or describe specified sexual activities or specified anatomical areas.

**ADULT CABARET** - A nightclub, bar, restaurant or similar commercial establishment, which regularly features:

- a. Persons who appear in a state of nudity;
- b. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities: or
- c. Films, motion pictures, videocassettes, slides, or other photographic reproductions, which are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

ADULT MOTEL - A hotel, motel or similar commercial establishment which:

- a. Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions;
- b. Offers sleeping rooms for rent for a period of time that is less than 10 hours; or
- c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

ADULT MOTION PICTURE THEATER - A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER - A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

ADULT VIDEO STORE - [see ADULT BOOKSTORE]

ADULT USES - Adult arcades, adult bookstores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, adult video stores, escort agencies, nude model studios and sexual encounter centers or similar types of adult businesses.

ESCORT - A person who, for any form of consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY - A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or any other form of consideration.

ESTABLISHMENT - Any of the following:

- a. The opening or commencement of any sexually-oriented business as a new business;
- b. The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business;
- c. The additions of any sexually-oriented business to any other existing sexually oriented business; or
- d. The relocation of any sexually oriented business.

NUDE MODEL STUDIO - Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.

NUDITY - The appearance of a human bare buttocks, anus, genitals or full female breast.

PERSON - An individual, proprietorship, partnership, corporation, association, or other legal entity.

SEMI-NUDE - A state of dress in which clothing covers no more that the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER - A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

SEXUALLY-ORIENTED BUSINESS -An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or similar types of adult businesses.

SPECIFIED ANATOMICAL AREAS - The male genitals and/or the female genitals.

SPECIFIED SEXUAL ACTIVITIES - Any of the following:

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral population or sodomy; or
- c. Masturbation, actual or simulated; or
- d. Excretory functions as part of or in connection with any of the activities set forth in A, B, and C above.

STATE OF NUDITY - [See NUDITY]

SUBSTANTIAL ENLARGEMENT - The increase in floor areas occupied by a sexually oriented business by more than 25% of the floor areas as it exists on the effective date of this chapter.

TRANSFER OF OWNERSHIP OR CONTROL - Means and includes any of the following:

- a. The sale, lease or sublease of a sexually-oriented business;
- b. The transfer of securities which constitute a controlling interest in a sexually oriented business, whether by sale, exchange or similar means; or
- c. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of a sexually-oriented business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

**C. Location Restrictions / Industrial/Adult Business District** - An overlay zoning district or floating zone is hereby established for adult businesses within the Village of Sherman. All zoning requirements of any existing district will apply in addition to the restriction listed in Section 638 Adult Business.

Upon the proposal of any Adult Business the Village Board will consider the application for locating the Adult Business and shall consider the appropriateness of the proposed location given the development proposal's compliance with all of the relevant concerns set forth in Section 638 of the Village's Zoning Law as well as the likely prevention of any negative secondary impacts from the proposed development to other neighboring properties and the general neighborhood in question. Should the Board determine that no such negative secondary impacts can be anticipated at the site, the Board may fix the proposed location by setting the specific area as part or all of the underlying zoning district.

The determinations of the Village Board herein shall not eliminate the requirements for a developer of an Adult Business obtaining such special use permit or site plan approval as may be required by other sections of the Village's Zoning Law which remain in effect and thus condition any such application.

- 1. Adult uses shall only be permitted in the C zoning district subject to the following restrictions:
  - 750 feet from any property currently in residential use;
  - 1,000 feet from any public or private school or day care center;



1,000 feet from any church or other religious facility or institution;  
1,000 feet from any public park, public bike path, playground, playing field, cemetery, civic or recreational facility, or designated urban renewal or development area; or  
750 feet from any other existing adult use.

2. No more than one adult use shall be located on any lot.
3. The distances provided hereinabove shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult use is to be located to the nearest point of the parcel of property from which the adult use is to be separated.

**D. Other Restrictions**

1. No adult entertainment use shall be conducted in any manner that allows the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas from any public way or from any property not operating as an adult entertainment use. This provision shall apply to any sign, show, window, or other opening.
2. There shall be no outdoor sign, display, or advertising of any kind other than one identification sign limited to only the name of the establishment.
3. Adult uses shall meet all other regulations of the Village of Sherman including but not limited to district lot and bulk regulations, parking regulations, and signage regulations.

- E. Amortization of Existing Adult Uses** - The right to maintain a legal nonconforming adult use shall terminate in one year from the effective date of this law, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty days or more. The owner may apply to the zoning board of appeals for an extension of the amortization period and the zoning board of appeals may grant an extension upon a finding that there are substantial and un-recovered costs which cannot be recouped within one year. Such nonconforming uses shall not be increased, enlarged, extended, or altered within the one-year period, except that the use may be changed to a conforming use.

**SECTION 639 OUTDOOR WOOD BURNING FURNACE**

- A. Purpose** - It is generally recognized that the types of fuel used, and the scale and duration of burning by outdoor wood burning furnaces, creates noxious and hazardous smoke, soot, fumes, odors, and air pollution can be detrimental to citizens' health and can deprive neighboring residents of the enjoyment of their property or premises.

**B. Definitions** -

OUTDOOR WOODBURNING FURNACE - An accessory structure, designed and intended, through the burning of wood, for the purpose of heating the principal structure or any other site, building or structure on the premises.

- C. Construction and Operation** - The construction and operation of outdoor wood burning furnaces are hereby allowed within all zoning districts of the Village of Sherman.

1. With the proposed installation of any outdoor wood burning furnace a minimum separation of 100 feet from said furnace shall be maintained with any other structure on any neighboring property.
2. That any permitted outdoor wood burning furnace shall maintain an efficient combustion system which will not allow for the discharge of any noxious smoke, odor or other form of discharge from its combustion process.
3. The outdoor wood burning furnace shall have a discharge smoke stack at an elevation determined by the Code Officer to ensure that exhaust heat will be distributed to the air stream above any adjoining property roofline so as to minimize the possibility of any nuisance affecting any adjoining property.

- D. Nonconforming Uses** - Except as hereinafter provided, the lawful use of any outdoor wood burning furnace existing at the time of the adoption of this article may be continued, although such use does not conform with the provisions of this article.

1. No outdoor wood burning furnace existing at the time of the adoption of this article shall thereafter be extended or enlarged.
2. Any existing outdoor wood burning furnace which is abandoned or discontinued for a period of twelve (12) consecutive months shall not be permitted to be reestablished as a nonconforming use, and must be immediately removed by the property owner from the subject premises.
3. If the property owner fails to remove the outdoor wood burning furnace by the end of said seven consecutive month period, the Village Code Enforcement Officer shall give written notice by certified mail or personal service to the owner of the property upon which the outdoor wood burning furnace is located. Such notice shall provide that said owner shall remove the outdoor wood burning furnace within 15 days of the date the notice is either postmarked or personally served upon the owner.
4. Should the outdoor wood burning furnace not be removed with the time specified, the Code Enforcement Officer shall take reasonable steps to effect its removal.
5. The costs incurred by the Village to effect said removal (including any attorneys' fees incurred by the Village to effect the removal), plus an amount equal to 50% of said costs of removal, shall be charged to the owner of said premises. Said expense shall be paid by the owner of the property so affected within 30 days from the date said costs are presented to the owner. If said expense is not paid within said thirty-day time frame, then said expenses shall be charged to the property so affected by including such expense in the next annual Village tax levy against the property.
6. No existing outdoor wood burning furnace which has been damaged by any reason to the extent of more than 75% of its assessed value for Village tax purposes shall be repaired or rebuilt.

**SECTION 640 STORAGE - ACCESSORY STRUCTURES**

- A. Purpose** - Storage structures are regulated to ensure that they are properly located so as to protect the rights associated with neighboring properties with respect to visibility, light and air movement, fire safety, and aesthetics.
- B. Administration** - Multiple storage sheds shall be aggregately considered to determine if the 120 square foot requirement is surpassed, in determining the type of permit that is required.
- C. Conditions** -
1. Area Requirements - The accessory area requirements for each district shall be met.
  2. Vacant Lots - In Residential Districts, a storage structure may be placed on a vacant lot if it meets appropriate yard requirements and if it is accessory to a primary use located within 200 feet. If the proposed storage structure would be over 200 feet from the principal structural, then a Special Use Permit shall be required. For all other districts, storage structures need not be accessory to a residential unit.
  3. Truck Storage - Any inoperable truck, semi-trailer or other similar unit shall not be used for storage in a residential district. In industrial and commercial districts, trucks and similar units shall only be allowed if they will have a negligible effect on the neighborhood, i.e.: out-of-sight, etc. A special use permit shall be required to make this determination.

**SECTION 641 MOBILE FOOD VENDORS**

[Added 2022-12-14 by LL #4 of 2022]

- A. Purpose** - This section regulates the mobile food vendor industry and use and operation of mobile food vehicles within the Village of Sherman. The purpose of this regulation is to balance the potential impact on neighbors when mobile food trucks, trailers, or wagons are in use and to protect other commercial businesses within the Village of Sherman.

## B. Conditions -

1. It shall be unlawful for any person to operate a mobile food vehicle within the Village of Sherman without first having obtained a valid mobile food vending permit from the Village of Sherman as prescribed in this section.
2. An annual mobile food vending permit can be reviewed at any time during the year if complaints of noncompliance are submitted; the permit may be revoked at any time without cause or notice.
3. It shall be unlawful for any person to operate a mobile food vehicle within the public right-of-way or on public property anywhere within the Village of Sherman, except as permitted herein:
  - a. Mobile Food Vendor shall not be permitted to operate without a special use permit in a R1 (Residential), or a R2 (Rural Residential) zoning district unless such use is located on the property of a preexisting social club, religious organization or not-for-profit organization duly organized in New York State.
  - b. Adjacent to or within a radius of one hundred (100) feet of the nearest edge of any parcel on which is located a licensed food establishment, the kitchen of which is open for serving food to patrons. This requirement may be waived if the proprietor of the adjacent food establishment gives written consent, and such consent is visibly displayed within the mobile food vehicle. This requirement shall be temporarily waived by the Village Board of Trustees for Village wide community festivals.
  - c. In any location that conflicts with any parking and vehicle and traffic laws, ordinances, rules, and regulations of the State of New York, the County of Chautauqua, and the Village of Sherman.
  - d. On any private property, unless the owner of such property gives written consent, and such consent is visibly displayed within the mobile food vehicle.
4. Permits are required by application under the following conditions:
  - a. Any person desiring to operate a mobile food vehicle shall make a written application for such permit to the Village of Sherman Clerk's Office on forms provided, which shall include the following:
    - i. name, signature and address of each applicant and each corporate officer of the mobile food vehicle vending corporation;
    - ii. a valid copy of all necessary licenses, permits, or certificates required by the County of Chautauqua, the State of New York, or any subsidiary enforcement agencies or departments thereof, including but not limited to, a valid New York State Department of Motor Vehicles registration and certificate of inspection and valid driver's licenses of all vehicle operators;
    - iii. a signed statement that the vendor shall hold harmless the Village of Sherman and its officers and employees for any claims for damages to property or injury to person which may be occasioned by any activity carried on under the terms of the permit; and
    - iv. insurance requirements:
      - a) The vendor shall furnish a certificate of insurance evidencing that the vendor possesses and maintains such public liability, food products liability, and damage to property or bodily injury, including death, which may arise from the operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice served upon the Village of Sherman. A permit issued pursuant to the

provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the Village of Sherman.

- b) In addition to the above-required certificate of insurance, the Village of Sherman shall request that the vendor also endorse, maintain, and include the Village of Sherman as an additional named insured on its underlying business commercial general liability policy.
- b. Enforcement Officer of Code or Zoning or Building Inspector shall perform a code inspection by conducting a fire safety inspection of the mobile food vehicle as part of the process of issuing or renewing a mobile food vendor permit.
- c. Conditions of the mobile food vendor permit include:
  - i. a mobile food vendor permit shall expire on January 1<sup>st</sup> of each year;
  - ii. a permit shall not be transferable; and
  - iii. each permit is valid only for the vehicle for which it was issued.
- d. Conditions of operations within the Village include:
  - i. The owner/operator of any mobile food vehicle permitted by the Village of Sherman shall comply with all provisions of federal, state, and local laws and ordinances.
  - ii. The owner/operator of any mobile food vehicle permitted by the Village of Sherman shall comply with all notices, orders, decisions, and rules and regulations made by the Code Enforcement Office, the Chautauqua County Sheriff's Office, the Chautauqua County Health Department, or any other Village of Sherman department and/or agency.
  - iii. If operating on private property, the vendor must obtain and display in or on the vehicle evidence of permission granted by the owner of the property in writing, specifying the days, times and specific location(s) for which permission has been granted.
  - iv. Vending operation takes place in a designated parking lot / park space / Village property at the furthest point from the nearest property line, with sufficient space to accommodate the operation and not reduce any required parking for the permanent tenant(s) at that location.
  - v. Mobile food vehicles with a valid mobile food vending permit may be operated by the vendor during hours as approved by the property owner that are within the hours of operation permitted within the Village.
  - vi. Mobile Food Vendors may not operate mobile food vehicles:
    - a) before 9:00 a.m.; or
    - b) after 9:00 p.m., Sunday through Thursday; or
    - c) after 10:00 p.m. on Friday and Saturday for events open to the public or after midnight for private events.
  - vii. All signage must be permanently affixed to the mobile food vehicle except each vehicle may use one sandwich board sign no larger than six square feet per side.
  - viii. Mobile Food Vendors must display signage indicating contact information for appeals/complaints, as well as proof of the annual agreement on the mobile food vehicle.
  - ix. All mobile food vehicles must be equipped with trash receptacles of a sufficient capacity and shall be changed as necessary to prevent overflow or the creation of litter or debris.
  - x. No products containing alcohol or cannabis may be sold or dispensed from mobile food vehicles.

- xi. All generators and equipment in operation on or in connection with the mobile food vehicle cannot exceed sixty (60) decibels.

**C. Fees** - The fees for a mobile food vendor permit shall be established by resolution of the Village Board of Trustees of this Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.

**D. Enforcement** - The authority having jurisdiction, Enforcement Officer, Code Officer, Zoning Officer, or Building Inspector shall have concurrent jurisdiction to enforce, and make decisions regarding this section.

**E. Violations** -

- 1. If the determination of the Enforcement Officer for code or zoning, or a Building Inspector, is that a violation has occurred, the authority having jurisdiction shall notify the owner or operator and the owner or operator shall be required to correct the violation or be subject to the penalties for the violations.
- 2. Violations shall be subject to penalty fees and revocation of the permit; additional fines and possible jail time shall be applicable with the violation of New York State laws.
- 3. Any mobile food vehicle operating without the required Village of Sherman permit shall be immediately closed by order of the Village of Sherman. Every day of operation without a valid permit shall constitute a separate violation.

**F. Penalties for offenses** - In addition to reimbursing the Village for any costs incurred for removal, repair, or damage, as a result of a violation of this section, (pursuant to Section 1202 herein):

- 1. Any person, firm, corporation, or other entity violating the provisions of this section may be liable for penalties as prescribed below and elsewhere within the Village of Sherman Zoning Law and may be subject to immediate closure by the Village of Sherman, its Enforcement Officer of Code, Zoning or Building Inspector, pending an administrative hearing before the Municipal Zoning Board, which will be scheduled within 60 days of said immediate closure.
- 2. Any mobile food vehicle found to be in violation of this section may be subject to being towed at the cost of the owner and incur a penalty fee per violation from the Village of Sherman.
- 3. Any violation of this section shall be deemed an offense punishable by a penalty fee; the schedule of fees that shall be established by resolution of the Village Board of Trustees of the Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.
- 4. Violation of the provisions of New York State Uniform Fire and Building Code and other applicable New York State laws shall be deemed an offense punishable by such fine and imprisonment as stated in the New York State Uniform Fire and Building Code and New York State law.

**SECTION 642 PERMANENT / SEMI-PERMANENT COVERING**

[Added 2022-12-14 by LL #4 of 2022]

**A. Purpose** - This section regulates the installation of Permanent and Semi-Permanent Coverings within the Village of Sherman. The purpose of this regulation is to prevent interference with the right-of-way and limiting, restricting, or prohibiting access to utility services, e.g., manholes, curb stops, house service lines, water main shut offs, and hydrant guard valves.

**B. Conditions** -

- 1. Preparing for a construction project involving Permanent or Semi-Permanent Covering:
  - a) Property owners are responsible to ensure project installation is done in accordance with the U-Dig Law (Call 8-1-1); at the time of this amendment, a Dig Notice is required whenever there is 'a disturbance of the ground'.

b) Prior to installing, pouring, or laying Permanent or Semi-Permanent Coverings, including but not limited to pavement and concrete for installations, including but not limited to driveways, courts, pads, sidewalks, patios, and garage floors, a plan of the intended construction project site plan shall be drawn.

2. Permanent / Semi-Permanent Covering Permits are required by application to provide the following information:
  - a) Name, signature, and address of the applicant or owner of the property.
  - b) Construction project site plan drawing.
  - c) List of materials.

**C. Authority -**

1. Enforcement Officer of Code or Zoning or Building Inspector shall oversee and issue the permit.
2. Local municipal approval of conditions of the Permanent / Semi-Permanent Covering Permit requires the review and approval of the Village Water, Wastewater, and Streets Departments.
3. A signed statement shall hold harmless the Village of Sherman and its officers and employees for any claims for damages to property which may be occasioned by any activity carried on under the terms of the permit.

**D. Fees -** The fees for a Permanent / Semi-Permanent Covering Permit shall be established by resolution of the Village Board of Trustees of this Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.

**E. Enforcement -** The authority having jurisdiction, Enforcement Officer, Code Officer, Zoning Officer, or Building Inspector shall have concurrent jurisdiction to enforce, and make decisions regarding this section.

**F. Violations -**

1. If the determination of the enforcement officer for code or zoning, or a building inspector, is that a violation has occurred, the authority having jurisdiction shall notify the owner or operator and the owner or operator shall be required to correct the violation or be subject to the penalties for the violations.
2. Violations shall be subject to penalty fees and revocation of the permit; additional fines and possible jail time shall be applicable with the violation of New York State laws.

**G. Penalties for offenses -** In addition to reimbursing the Village for any costs incurred for removal, repair, or damage, as a result of a violation of this section, (pursuant to Section 1202 herein):

1. Any person, firm, corporation, or other entity violating the provisions of this section may be liable for penalties as prescribed below and elsewhere within the Village of Sherman Zoning Law and may be subject to immediate remediation by the Village of Sherman, its Enforcement Officer of Code, Zoning or Building Inspector, pending an administrative hearing before the Municipal Zoning Board, which will be scheduled within sixty (60) days of said immediate remediation.
2. Any violation of this section shall be deemed an offense punishable by a penalty fee; the schedule of fees that shall be established by resolution of the Village Board of Trustees of the Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.
3. Violation of the provisions of New York State Uniform Fire and Building Code and other applicable New York State laws shall be deemed an offense punishable by such fine and imprisonment as stated in the New York State Uniform Fire and Building Code, and New York State law.

## ARTICLE: VII

### ADMINISTRATION BY ENFORCEMENT OFFICER

#### **SECTION 701 ENFORCEMENT**

This Law shall be enforced by the Enforcement Officer who shall be appointed for a period of two (2) years by the municipality. No building permit shall be issued by him except where there is to be compliance with all provisions of this Law.

#### **SECTION 702 DUTIES**

It shall be the duty of the Enforcement Officer in connection with this Law to do the following:

- A. Permits** - Issue building/zoning permits or refuse to issue the same and give the reasons for such refusal to the applicant in writing.
- B. Records** - Keep a record of all applications for permits and record of all permits issued with a notation of all special conditions involved.
- C. Fees** - The Enforcement Officer determines and calculates the applicable required fee(s) from the Schedule of Fees and notifies the applicant and municipal clerk of the fee due and payable. The municipal clerk is charged with the responsibility to collect, receive, record, and deposit payments. The Enforcement Officer is not to receive or deposit fees but verify the receipt of fees with the municipal clerk prior to the release of permit(s), certificate(s), or license(s); and record the value of the permit issued with the Enforcement Department property records. [Supersedes and Replaces original Section 702-C, adopted 2022-12-14 by LL #4 of 2022]
- D. Coordination** - Keep the Municipal Board, the Zoning Board of Appeals, and Planning Board informed and advised of all matters, other than routine matters in connection with this Law.
- E. Reports** - Submit such reports as may be deemed necessary by the Municipal Board.
- F. Assist Applicants** - whenever possible advise and assist persons applying for building permits with the preparation of their applications.
- G. Violations** - Assist in securing warrants and prosecution of violators of the provisions of this Law.
- H. Notices** - Serve or cause to be served all notices that may be required to be served in connection with this Law.
- I. Fire Inspection** - Notify Fire Code Inspector of all permits issued.
- J. Building Code Inspector** - Notify Building Code Inspector of all permits issued.
- K. Amendment Requirements** - Make recommendations for keeping the Zoning Law and accompanying map up to date.
- L. Inspections** - Inspect new construction or changes of use during and/or after construction or change in use to insure conformity with the provisions of this Law and other applicable laws.

#### **SECTION 703 ZONING PERMITS**

- A. Permit Required** - No building, structure, accessory uses, or lot shall be erected, added to, structurally enlarged, or changed to another use until a zoning permit has been issued by the Enforcement Officer. Excluded, however, from these permit requirements are:
  - 1. Interior modifications unless additional dwelling units or different types of uses are created, and
  - 2. Home repairs or improvements not involving additions or enlargements of floor space.
  - 3. Refer to Article IV, District Regulations, for other exclusions.
- B. Permit Contents** - the application for a permit shall be made on a form obtained from the Enforcement Officer. The form shall, as a minimum, contain the following:
  - 1. Applicant information - name, address, etc.
  - 2. Property identification - street address and Section/Block/Lot;

3. Project description including purpose - proposed use;
  4. Construction type - height, family units, lot dimension, setbacks, accessory buildings, etc.
  5. Other information - copy of Health Department Permit, off-street parking, location of wetlands, flood plains, need for curb cut;
  6. Signature of applicant; and
  7. Plot plan drawn to approximate scale showing the lot size, setback, highways, existing and proposed structures, and any other pertinent features as determined by the Enforcement Officer.
- C. Commercial Permit Requirements** - All applications for permits for commercial buildings must contain information detailing drainage and landscaping plans, off-street parking, off-street loading, and any other data the Permitting Board deems necessary.
- D. Validity** - Building permits shall be valid for a 1-year period only. Within 1 year from the date that the building permit is granted, the exterior of the structure shall be completed, back filling and rough grading will be accomplished, and no new building materials will be stored outside. One-year extensions shall be allowed for just cause.
- E. Notification of Adjacent Property Owners** - Attempts shall be made to notify in writing property owners of land adjacent to parcels of land involved in requests for zoning permits, special use permits, variances, or amendments. The notification shall be a copy of any public notice advertising the meeting or hearing. Failure of such adjacent property owners to receive such notice, however, shall not be a basis for validating such a building permit; nor of contesting the actions of the Code Enforcement /Zoning Officer, Board of Appeals, Village Planning Board, or the Municipal Board in regard to the issuance or withholding of such permit.
- F. Decisions**
- a. All decisions by the Code Enforcement/Zoning Officer to grant or deny a zoning permit shall be made in writing within 20 days from the time that the completed zoning permit form is submitted along with full payment of the required fee.
  - b. All decision forms shall, as a minimum, include a project description, location information, reference to section of the Zoning Law which would not be complied with and a description of alternatives open to applicants who are in violation of the Zoning Law.

**SECTION 704 SCHEDULE OF FEES**

[Replaces original Section 704, adopted 2022-12-14 by LL #4 of 2022]

A fee schedule shall be established by resolution of the Board of Trustees of this Village. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Operating Permits, Fire Safety and Property Maintenance Inspections, Special Use Permits, Use and Area Variances, License Fees, Penalty Fees and other actions of the Enforcement Officer of Code, Zoning or Building Inspector described in or contemplated by this local law.

**SECTION 705 ADMINISTRATIVE LIABILITY**

[Added 2022-12-14 by LL #4 of 2022]

No officer, agent, or employee of the Village shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Chapter. Any suit brought against any officer, agent, or employee of the Village as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by Village Counsel until the final determination of the proceedings therein.



## **ARTICLE VIII NONCONFORMING USES**

### **SECTION 801 CONTINUATION**

The lawful use of any building or land existing at the time of the enactment of this law may be continued although such use does not conform with the provisions of this law, however, all legally preexisting uses which do not conform with specific provisions of this Law shall not be required to comply with these provisions unless it is specifically stated within this Law that they must comply within a certain reasonable time period. Additionally, all nonconforming uses may be maintained and altered to the extent that the nonconforming use is not extended.

### **SECTION 802 ALTERATION OF STRUCTURES**

- A. Unsafe Structures** - Nonconforming buildings damaged by fire, wind, and other catastrophic causes as well as structures declared to be unsafe due to general dilapidation may be restored or rebuilt for the nonconforming use it was used for last. Unsafe structures cannot be restored or rebuilt if it would result in a use which is more nonconforming than the structure was prior to become unsafe. When the unsafe condition was caused by fire, wind, or any catastrophic causes, the permit must be applied for within 6 months from the date of the fire, otherwise, the building permit need not be granted, as decided by the Municipal Board.
- B. Alterations of Structures** - A nonconforming structure may be added to or altered during its life to an extent of up to 50% of the market value of the building. As long as the alterations do not cause the structure to be more nonconforming. If the alterations are made to bring the building into conformity with all provisions of this Law, then the 50% rules does not apply. Alterations above 50% shall be allowed if all conditions of this Law are met.

### **SECTION 803 PRIOR APPROVED CONSTRUCTION**

Nothing herein contained shall require any change in plan, construction, or designated use of a building for which a zoning permit has been heretofore issued and the construction of which shall have been diligently carried on within 12 months of the date of such permit.

### **SECTION 804 CESSATION**

Whenever a nonconforming use has been voluntarily discontinued for a period of two years, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this Law. A land owner shall have the opportunity to apply to re-establish a nonconforming use by application to the Zoning Board of Appeals specified in the nature of the use intended along with all the relevant information supporting the proposed land use. The Zoning Board of Appeals shall consider any such application according to the rules applicable to use variance requests.

### **SECTION 805 DISPLACEMENT**

No nonconforming use shall be extended or enlarged to displace a conforming use on the property or adjacent property.

### **SECTION 806 DISTRICT CHANGES**

Whenever the boundaries of a district or zone shall be changed so as to transfer an area from one district or zone to another district or zone of a different classification, the provisions of this article shall also apply to any uses made nonconforming as a result of the change.

**SECTION 807 NONCONFORMING YARD CHANGES**

A permitted use which is not in conformance with yard requirements (e.g. setbacks, etc.) may be removed and replaced with another structure (same use) which is the same or more in compliance with the yard requirements without going through area variance procedures. The Enforcement Officer shall determine the applicability of this section to specific cases. Additionally, where an existing structure does not comply with setback requirements, additions to the structural may be made where the setbacks will not be further violated. Generally, this shall apply to the filling of irregularly shaped structures.

**SECTION 808 USE CHANGES**

Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A legal nonconforming use may be changed to another nonconforming use which is of such a character so as to be equal or less of a nuisance and more in conformance with the zoning law requirements. The Zoning Board of Appeals shall make all determinations as to what new nonconforming uses would be allowable through the normal use variance procedures (see Section 904 on variances).

## **ARTICLE IX**

### **ZONING BOARD OF APPEALS**

#### **SECTION 901 CREATION**

**A. The Zoning Board of Appeals** is hereby created. Said Board shall consist of 5 members. The Board may prescribe for its affairs.

#### **SECTION 902 GENERAL PROCEDURES (DUTIES)**

- A. Duties** - The Zoning Board of Appeals shall act in strict accordance with procedures specified by Law and by this Zoning Law. The major duties of the Board shall be to hear and decide on variance requests as well as to interpret the meaning of the Zoning Law as requested. Additionally, they shall hear requests for selected Special Use Permits.
- B. Format for Requests** - All requests shall be in writing on forms prescribed by the Zoning Board of Appeals. Specific provisions of the Zoning Law shall be referred to and as a minimum, the following information shall be provided by the person requesting the variance / interpretation:
1. Property identification;
  2. Project description;
  3. Drawing of sufficient detail to provide needed information sufficient to decide on the request;
  4. Reasons for permit denial;
  5. Proof of unnecessary hardship or practical difficulties; and
  6. Hearing information.
- C. Referral to Planning Board** - On an optional basis, the Zoning Board of Appeals may request a written recommendation by the Planning Board. The failure of the Planning Board to submit said report shall be deemed to be an approval of the appeal or interpretation in favor of the applicant.
- D. Hearings** - All hearing procedures shall be in accordance with appropriate laws with respect to notices, timelines, etc.
- E. Decisions** - Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings. Decisions shall be made in a timely manner in accordance with state law. As per state law, a majority of the membership are needed to pass or reject any request.
- F. Time Requirements** - All appeals to the Zoning Board of Appeals for interpretations or variances shall be submitted to the Zoning Board of Appeals within 30 days of the date of denial of the application.

#### **SECTION 903 INTERPRETATION**

The Zoning Board of Appeals shall have the power to interpret the meaning of this Zoning Law whenever called upon by the Zoning Officer, or an aggrieved party. This shall include the power to reverse any order, requirement, decision, or determination of an administrative official or Municipal Board. This interpretive power shall include the determination of zoning district boundary lines.

#### **SECTION 904 USE & AREA VARIANCES**

- A. Reasons for Variances** - The Zoning Board of Appeals has the authority to vary or modify the strict letter of the Zoning Law where a literal interpretation would cause practical difficulties (Area Variances) or unnecessary hardships (Use Variance).
- B. Applicability & Limitations** -
1. The Zoning Board of Appeals can decide appeals from a person who feels aggrieved by a decision of the Enforcement Officer.

2. The Zoning Board of Appeals in its role as an appellant board has absolutely no power to amend the Zoning Law and must exercise great care to ensure that its rulings do not, in effect, amend the Zoning Law. All amendments to the Zoning Law shall be made by the Village Board enacting such amendments in the manner provided by law.

**C. Basis for Granting Area Variances -**

1. Area Variances provide relief of a dimensional nature, (e.g., lot size, setbacks, building heights, etc.) and must be based on practical difficulty. The burden of proof is on the applicant and, if relief is warranted, it should be the minimum necessary.
2. The following 5 determinations must be considered in order to decide if "Practical Difficulty" is present:
  - a. How substantial the variation is in relation to the requirements of the Zoning Law;
  - b. The effect of the proposal on increased population density and governmental facilities (e.g.; fire, water, etc.);
  - c. Whether a substantial change in the character of the neighborhood or a detrimental effect on adjoining properties would take place;
  - d. Whether the difficulty can be eliminated by some other reasonable alternative other than a variance (e.g., add room to other side of house); and
  - e. Will justice be served in allowing the variance.
3. The fact that the practical difficulty was self-imposed does not disqualify the applicant from being granted an Area Variance.
4. If a property owner will suffer significant economic injury by strict interpretation of the area standards and practical difficulties are present, then the Area Variance can only be denied based on health, safety, or general welfare reasons.

**D. Basis for Granting Use Variances -**

1. Use Variances provide relief to an applicant who is denied through application of the Zoning Law by the Municipal Board the right to use land or structures in a certain manner since the use is not listed as an allowable use in the Zoning Law. In order to be granted the Use Variance, the applicant must prove that "Unnecessary Hardship" exists and this is accomplished by showing All of the following:
  - a. The land in question cannot yield a reasonable return if used only for a purpose allowed in the district. This does not mean that profits will necessarily be maximized.
  - b. The use requested by the variance will not alter the essential character of the neighborhood and be detrimental to properties in the vicinity.
  - c. The plight of the applicant is due to unique circumstances and not to the general conditions in the neighborhood.
  - d. That the alleged hardship has not been self-created. An example of this would be the purchase of property which is not appropriate for the proposed use.

Please refer to NYS Village Law 7-712-b, subsection 2 (Use Variances) for reference and clarification.

- E. In granting any variance, the Zoning Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable and are in compliance with the intent of the Zoning Law. The decisions must be written in the form of a resolution and must state in detail the reasons for granting or denying the variance and the conditions imposed.
- F. **Temporary Variances** - The Zoning Board of Appeals may issue, for uses which are of a temporary nature, a Variance. Said Variance shall clearly state the conditions of the variance to include when it shall terminate, the possibility of renewal, and other conditions deemed necessary.

**SECTION 905 SPECIAL USE PERMITS**

- A. **Applicability** - Whenever a Variance (Use or Area) is required before a Special Use Permit can be reviewed, the Zoning Board of Appeals shall be the authorized Board for dealing with both the Variance and the Special Use Permit.

- B. Basis for Granting Special Use Permits** - See Article XI on Municipal Board, Section 1101(B) on Special Use Permit.
- C. Referral to Municipal Board & Planning Board**
  - 1. Prior to action on Site Plan Review, the Zoning Board of Appeals shall advise the Planning Board of the proposed actions.

**SECTION 906 MANDATORY REFERRAL (General Municipal Law 239 L&M)**

- A. Applicability** - In accordance with General Municipal Law 239 L&M, before issuing a Special Use Permit or granting a variance affecting any real property within a distance of 500 feet of the boundary of this Municipality or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway, or from the channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, or from the boundary of a farm operation located in a State certified Agricultural District, the matter shall be referred to the Chautauqua County Planning Board.
- B. Response Time** - Within 30 days after receipt of a full statement of such referred matter, the Chautauqua County Planning Board to which referral is made, or an authorized agent of said agency shall report its recommendations thereon to the Board of Appeals, accompanied by a full statement of the reasons for such recommendations. If the Chautauqua County Planning Board fails to report within such period of 30 days, the Board of Appeals may act without such report. If the Chautauqua County Planning Board disapproved the proposal, or recommends modification thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of a majority plus 1 of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action.
- C. Report of Action** - Within 7 days after final action by the Board of Appeals, modifications or disapproval of a referred matter, the Board of Appeals shall file a report of the final action it has taken with the Chautauqua County Planning Board which had made the recommendations, modifications, or disapproval.

## **ARTICLE X**

### **MUNICIPAL PLANNING BOARD**

#### **SECTION 1001 CREATION**

The Municipal Board shall appoint a Planning Board consisting of 5 members as prescribed by NYS Village Law 7-718.

#### **SECTION 1002 DUTIES: RECOMMENDATIONS & PERIODIC REVIEW**

The Planning Board shall have the following duties with respect to the Zoning Law.

##### **A. Recommendations**

1. *Optional Reports* - The Planning Board shall submit reports within 30 days after referral on any matter referred to it.
2. *Mandatory Recommendations* - The Planning Board shall submit recommendations to the appropriate Board on all applications for zoning amendments and Special Use Permits.
3. *Failure to Report* - When the Planning Board fails to make a recommendation/report within 60 days from receipt of the request it shall be deemed that the Planning Board has no objection to the request or proposal. The 60-day requirement may be extended with permission of the Board making the referral.

**B. Review of Zoning Law** - to review the Zoning Law at least every 5 years and make written recommendations for amendments, should they be necessary.

#### **SECTION 1003 MANDATORY REFERRAL**

Under General Municipal Law 239 L&M, certain Special Use Permits and zoning amendments must be referred to the County Planning Board prior to local decisions being made. See Article IX. Zoning Board of Appeals, for procedures to be followed (section on mandatory referrals).

# ARTICLE XI

## MUNICIPAL BOARD

### **SECTION 1101 DUTIES: AMENDMENTS & SPECIAL USE/SITE PLAN**

The Municipal Board shall have the following duties with respect to this Zoning Law.

#### **A. Amendments -**

1. The Municipal Board may from time to time on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this Law after public notice and hearing.
2. The Municipal Board by resolution adopted at a scheduled meeting shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given in accordance with applicable Law.

#### **B. Special Use Permit/Site Plan Review -**

1. *Applicability* - The Municipal Board shall hear all requests for Special Use Permits/Site Plan Reviews. Special Use Permit/Site Plan Review shall also be required for projects wherein the State Environmental Quality Review process shall indicate that a project may not be entitled to an automatic Negative Declaration of Environmental Impact by either Short Form Environmental Assessment or the Long Form Environmental Assessment. Such a review process, whether considered alone or in combination with other project reviews shall be conducted as specified below.

2. *Special Use Permit Provisions* –

*General Provisions* - The special uses listed in this Zoning Law for which conformance to additional standards are required shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this Zoning Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

*Standards* - The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it, and the location of the site with respect to the existing or future streets giving access to it, shall be such that it will be in harmony with the orderly development of the district and the location, nature and height of buildings, walls, and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof. Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or lights, than would be the operations of any permitted use.

3. *Conditions* -

- a. In the granting of Special Use Permits, the Permitting Board shall attach such conditions and safeguards as it deems appropriate under this Law.
- b. The supplemental section of this Law entitled. General Development Conditions, will be referred to and used as a checklist of possible conditions to be attached to the Special Use Permit being requested. It should not be assumed that this Section is all-inclusive.
- c. A plan for the proposed development of a site for designated special use shall be submitted with an application for a Special Use Permit, and plan shall show the location of all buildings, lots, parking areas, traffic access, and circulation drives, and any other pertinent information that the Permitting Board deems necessary.
- d. *Procedures* - the Permitting Board shall act in strict accordance with procedure specified by Law and by the Zoning Law with regard to public hearings, notices, publications, etc.
- e. *Expiration* - A Special Use Permit shall be deemed to authorize only one particular use and shall expire if the special use shall cease for more than 1 year.

- f. Existing Violations - No Special Use Permit shall be issued for a property where there is an existing violation of this Law.

4. *Site Plan Review Requirements* -

- a. Purpose - Site plan review has the purpose of specifying for all involved parties what the intended design, arrangement, and uses of the land so as to optimize the physical, social, and economic effects on the community for specified types of development.

- b. *Administration* -

- (1) Permits - The Permitting Board shall be responsible for a site plan review of all development with over 5,000 square feet of floor space or residential development involving more than 3 dwelling units. In these instances, the Permitting Board shall also be responsible for administering the Special Use Permit requirements, with both processes taking place simultaneously.
- (2) Expiration - A Site Plan Review shall be deemed to authorize only one particular use and shall expire if the use shall cease for more than 1 year.
- (3) Hearings - an attempt shall be made to integrate, where appropriate, the Site Plan Review requirements into the required Special Use Permit hearing thus eliminating the need for 2 hearings.
- (4) Referral - The Permitting Board shall, within 7 days of receipt of the complete application, submit to the Planning Board a request for an opinion on any proposed project. The Permitting Board shall wait 14 days for a response prior to acting on the matter.

Decision Requirements - within 45 days of receipt of the complete application the Permitting Board shall render a decision to the Zoning Officer. If no decision is made within the 45-day period, the site plan shall be considered approved. The applicant shall be notified in writing of its decision with the reasons for the decision specified.

- c. *Information Required* - Sketches drawn to approximate scale will be prepared by the applicant, where feasible, to display use following information:

- (1) Administration. Legal and Other Miscellaneous Information - (a) project title and date;
- (2) Name, address and telephone number of applicant, owner (if different), contractor, architect, and other major involved parties;
- (3) Construction schedule to include phasing and the completion date;
- (4) Performance bond to include amount, public improvements covered and bond approval;
- (5) Location width and purpose of all easements, public land holdings, leases, covenants, deed restrictions or any other unique land restriction; and
- (6) Record of all applications for permits from the Federal, State, or County governments to include approval status.
- (7) Existing Manmade Features to be shown
- (8) Boundary lines of project site properties; and
- (9) Ownership pattern of all adjacent parcels.
- (10) Existing structures on project site and adjacent properties to include location, dimensions, height, and use. Decks and accessory structures should also be shown as well as historic structures.
- (11) Roadways to include public roads, private roads, or driveways on the site, on and off-street parking, load/unload zones, access and egress, pedestrian pathways, or sidewalks. Width and elevations should be included.
- (12) Utilities shall be identified to include location and size of water, sewer, drainage pipes, telephone, electric, gas, and TV cable. Additionally, any solar systems should be identified.
- (13) Miscellaneous features to include: fences, signs, outside lighting, public address system, storage areas, and as well as adjacent retaining walls shall be shown.



- (14) Fire lanes and fire hydrants, if any exist, should be displayed.
  - (15) Recreational areas both on the site and adjacent should be displayed to include public and private facilities.
  - (16) Decks, pools, tennis courts, etc., should be included.
  - (17) Trash or garbage collection areas shall be identified.
  - (18) Services such as banks, schools, retail, or service districts should be identified.
  - (19) Zoning district boundaries shall be identified.
  - (20) Other information deemed necessary by Permitting Board.
5. *Existing Natural features to be shown -*
- a. Topographic features with a minimum interval of 10 feet but preferably 2 feet. Areas of steep slope should be delineated.
  - b. Geographic features such as depth to bedrock and load bearing capacity for large development proposals.
  - c. Geographic features including drainage and runoff patterns, flood hazard areas, wetlands, depth to ground water and drainage capacity of soil.
  - d. Landscaping and vegetative cover including wooded areas, significant isolated trees, ground cover, shrubs, and other similar features. Buffers should be identified.
  - e. Watercourses and the location of lakes, streams, or ponds.
  - f. Archaeologically significant areas.
  - g. Significant viewsapes should be identified.
  - h. Other information deemed necessary by Permitting Board.
6. *New Proposal Features -*
- a. Reference to the EXISTING man-made and natural features above, provide a description/sketch of any changes that; are being proposed.
  - b. Include construction materials proposed for use.
  - c. Provide design features.
  - d. List the positive and negative effects for each existing feature listed above (e.g., traffic to be generated and the effects it will have on specific roadways).

**SECTION 1102 REFERRAL TO MUNICIPAL PLANNING BOARD**

- A. Prior to action on Zoning Amendments and Special Use/Site Plan Review Permits the Municipal Board shall advise the Planning Board of the proposed action.
- B. The Planning Board shall have 30 days in which to review the proposed action and return their recommendation to the Municipal Board. After the 30 days has expired, the Municipal Board may act without receipt of a recommendation from the Planning Board.

**SECTION 1103 MANDATORY REFERRAL**

General Municipal Law 239 L&M must be followed when amending a Zoning Law or acting on special use permits and zoning amendments. The Mandatory Referral Section 906 in the Zoning Board of Appeals Article IX should be consulted for the procedure to be followed.

## ARTICLE XII VIOLATIONS & PENALTIES

### **SECTION 1201 VIOLATIONS**

Whenever a violation of this Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Officer, who shall properly record such complaints and immediately investigate. However, the Municipal Board shall be responsible for insuring compliance with this Law when it is brought to their attention that a violation may exist; even through no formal complaint is filed.

### **SECTION 1202 PENALTIES**

[Supersedes and Replaces the original Section 1202, Adopted 2022-12-14 by LL #4 of 2022]

**A. Liability** - Any person, firm, corporation, or other entity violating the provisions of this Chapter may be liable for any one or more penalties as prescribed below and elsewhere within the Village of Sherman Zoning Law by the Village of Sherman, its Enforcement Officer of Code, Zoning or Building Inspector. Owners, occupants, and responsible agents may be liable for remuneration for remediation measures taken by the Village of Sherman and its employees and contractors in accordance with Village of Sherman Municipal Code and Zoning Law. Violations may lead to additional fines and imprisonment under the provisions of New York State Law. With notice given by any person authorized by this Chapter to give such notice or order shall be punishable as provided in the penalty provisions of the Village of Sherman:

1. **By owner.** The owner of any property who shall fail to comply with any notice of order to clean up, remove, remediate, repair, vacate, demolish, or otherwise fail to come into compliance with the law.
2. **By occupant.** The occupant or lessee or tenant in possession who fails to comply with any notice given as provided for in this Chapter shall be punishable as provided in the penalty provisions of the Village of Sherman.
3. **By agent.** The legal custodian or designated responsible party for a property or operation who fails to comply with any notice given as provided for in this Chapter shall be punishable as provided in the penalty provisions of the Village of Sherman.
4. **Removal of notice.** Any person removing notice posted by the Village of Sherman shall receive a penalty fee as provided in the penalty provisions of the Village of Sherman.

**B. Penalty Fees** - Any violation of this Chapter shall be deemed an offense punishable by a penalty fee; the schedule of fees that shall be established by resolution of the Village Board of Trustees of the Village of Sherman. Such fee schedule may thereafter be amended from time to time by like resolution.

**C. Remuneration** -

1. As a result of a violation of this Chapter, all expenses incurred by the Village in connection with the proceedings to clean up, remove, or remediate conditions on premises specified of any nature including legal costs shall be assessed against the land upon which the violations occurred and shall be levied and collected in the same manner as provided for the levy and collection of municipal taxes.
2. Any vehicle found to be in violation of this Chapter may be subject to being towed at the expense of the owner and incur a penalty fee per violation.
3. Any animal found to be in violation of this Chapter may be subject to collection and impoundment at the cost of the owner and incur a penalty fee per violation.

**D. Orders** - As a result of a violation of this Chapter:

1. A business shall be subject to immediate closure and incur a penalty fee per violation.
2. A build shall be subject to a Stop Work Order and incur a penalty fee per violation.

3. A property shall be subject to an Order to Vacate and incur a penalty fee per violation.

**E. Fines and Imprisonment -**

1. Any violation of any provision of this Law by any person, corporation, or entity shall be punishable by a fine of up to \$1,500. Each week's continued violation shall constitute a separate additional violation.

2. Violation of the provisions of New York State Uniform Fire and Building Code and other applicable New York State laws shall be deemed an offense punishable by such fine and/or imprisonment as stated in the New York State Uniform Fire and Building Code and other applicable New York State laws.

**F. Civil Action -** Notwithstanding the above, the Village Board of Trustees of the Village of Sherman hereby reserves the right to proceed to enforce the provisions of this Chapter by civil action, injunction, and any other remedy afforded to it by the laws of the State of New York and the United States.

## **ARTICLE XIII LEGALITY**

### **SECTION 1301 CONFLICTS**

In their interpretation and application, the provisions of this Law shall be held to be minimum requirement, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this Law are at variance with other requirements of this Law or the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

### **SECTION 1302 SEPARABILITY**

The invalidity of any provisions of this Law shall not invalidate any other part thereof.

### **SECTION 1303 REPEALER**

Any previously adopted Zoning Law or regulations of the municipality, together with all changes and amendments thereto, are hereby repealed and declared to be of no effect.

### **SECTION 1304 EFFECTIVE DATE**

This Local Law shall take effect 10 days after the date of its publication and posting as required by Law and upon filing with the Secretary of State of the State of New York.

## **ARTICLE XIV VILLAGE EXEMPTION**

[Added 2021-07-14 by LL 1-2021]

### **Section 1401 PURPOSE AND INTENT; AUTHORITY**

It is the intent of this section to specifically provide for the exemption of Village projects and activities from the Village's Zoning Code. It is adopted pursuant to New York Municipal Home Rule Law.

### **Section 1402 VILLAGE EXEMPTION**

Notwithstanding any other provision of this chapter, any action, including but not limited to site plan review, subdivision approval, planned unit development review, special use permit application, use variance or area variance application, which is proposed or undertaken by the Village of Sherman, or on behalf of the Village with the Village's written authorization, shall be exempt from the provisions of this chapter. Notwithstanding this exemption, the Village Board may seek nonbinding advisory review from the Village Planning Board and/or Zoning Board of Appeals for any such proposed Village action. This exemption specifically does not apply to the provisions of the State Environmental Review Act (SEQRA) or other state or federal requirements but is limited only to requirements of the Village of Sherman.